

**INTRODUCTORY
LOCAL LAW #3 OF 2018**

**A LOCAL ADDING CHAPTER 213 OF THE CODE OF THE VILLAGE OF WALDEN
ENTITLED “PROPERTIES, ABANDONED, VACANT, BOARDED and FORECLOSED”**

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 Adding Chapter 213 of the Code of the Village of Walden entitled “Properties, Abandoned, Vacant Boarded and Foreclosed.”

SECTION 2 – PURPOSE & INTENT

The Village Board of the Village of Walden, Orange County, New York, recognizes that there are a number of properties within the Village that have become abandoned, vacant, or boarded up for many various reasons, including but not limited to the inability of the owner or owners of such property to make real property tax payments, insurance payments, property maintenance requirements as established by local, county, state or federal codes, or for various other reasons. The Village Board recognizes that buildings, both residential and commercial, have remained abandoned, vacant or boarded up for long periods of time, in some cases for many years. As such, these buildings and the properties upon which they are constructed are unsightly and unsafe and have a negative effect on their surroundings and upon the community in general. The purpose of this chapter is to establish a program for identifying and registering abandoned and vacant buildings and properties; to determine the responsibility of the owners of these properties; to set forth the process for securing, maintaining and rehabilitating these properties and to require the registration of these properties with the Village Building Department.

The Village Board of the Village of Walden intends that the provisions of this chapter are to prevent the properties subject to this chapter that have been abandoned, are vacant and/or may be involved in the mortgage foreclosure process from becoming dangerous, blighted, overgrown, susceptible to vandalism and otherwise nuisances to the public in general and specifically to surrounding property owners. The Village Board recognizes that properties involved in the mortgage foreclosure process are often left abandoned, vacant, blighted and are in locations that might breed nuisance and criminal activity for months and often years. Accordingly, the Village Board believes that the provisions of this chapter requiring registration of properties; posting of properties; designation of local agents for properties; the securing of properties; penalties for the failure to comply with the requirements of this chapter and other ordinances, sanitary codes, building codes, and other local regulations dealing with the external and internal maintenance of properties is in the best interests of the public health, safety and welfare of the citizens of the Village of Walden.

The Village recognizes that the legislation recently adopted by the State of New York, set forth in the New York State *Real Property Actions and Proceedings Law* seeks to address certain of the issues identified hereinabove by regulating certain plaintiffs in certain specified mortgage foreclosure actions.

It is the intent of his local law to regulate the owners of the property that are herein identified and not to regulate those entities that are subject to the provisions of New York State *Real Property Actions and Proceedings Law*.

SECTION 3 – ADDITION OF CHAPTER 213

§213-1 Definitions.

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

BUILDING OFFICIAL/CODE ENFORCEMENT OFFICER/INSPECTOR

Duly authorized representative of the Village of Walden, Orange County, New York, holding the position of Building Official, Deputy Building Official, Code Enforcement Officer, Building or Fire Inspector.

EVIDENCE OF VACANCY

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 not be limited to, overgrown and/or dead vegetation, accumulation of abandoned real property, as defined herein, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

LOCAL AGENT

The agent designated by the owner or mortgagee upon registration as required by this chapter.

OWNER

Owner or owners of record on the assessment rolls in the Office of the Assessor of the Village of Walden; those identified as owner or owners on a vacant building registration form; a receiver or assignee of rents; an executor, trustee, or other person, firm, entity or corporation in control of the property or premises; persons or entities may have a joint and several obligations for compliance with the provisions of this chapter.

SECURING

Any measures that assist in making the property inaccessible to unauthorized persons.

VACANT OR ABANDONED BUILDING OR PROPERTY

A building or property or portion of same which is unoccupied and unsecured; unoccupied and secured by other than normal means; unoccupied and unsafe as determined by the Building Official/Code Enforcement Officer of the Village of Walden; unoccupied and has multiple housing or Building Code violations; illegally occupied; unoccupied and the subject of Code violation notices issued by the Building Official/Code Enforcement Officer of the Village of Walden. This shall not include individual condominium units or other individual units in a Village-interest community where all exterior elements and Village areas are jointly owned and maintained by a homeowners' or community association.

VACANT STRUCTURES

A building or structure that is not legally occupied.

§ 213-2 Registration.

- A. All owners of abandoned and vacant properties shall register with the Building Official/Code Enforcement Officer of the Village of Walden not later than 10 days after any building in the Village becomes an abandoned or vacant building and not later than 20 days after being notified by the Building Official/Code Enforcement Officer of the Village of Walden of the requirement to register. The Building Official/Code Enforcement Officer may identify vacant buildings through his/her routine inspection process as well as through notification by residents, neighbors, neighborhood groups or other community groups that a building may be abandoned or vacant and eligible for inclusion on the required registry. Registration by owners shall be submitted on forms provided by the Building Official/Code Enforcement Officer of the Village of Walden.
- B. All owners must supply the following information to the Building Official/Code Enforcement Officer of the Village of Walden:
- (1) A description of the premises, including the property address as well as the section, block and lot number of the property as set forth in the tax records of the Village of Walden located in the Office of the Assessor of the Village of Walden.
 - (2) The names and addresses of the owner or owners, or mortgagee or mortgagees.
 - (3) Whether or not the owner or owners, reside in the Village of Walden, the name and address for the owner, owners, mortgagee, or mortgagees, mailing address, telephone number, local agent's name, mailing address, telephone number, e-mail address for the owner, owners, mortgagee or mortgagees. Mailing addresses may not be a post office box but must be an actual street address where the owner, owners, mortgagee, mortgagees reside or do business.
 - (4) The name, street address, telephone number and e-mail address of a natural person 21 years of age or older designated by the owner, owners, mortgagee, mortgagees as the authorized agent for receiving notices of Code violations and/or receiving process in any Court proceeding or administrative enforcement proceeding on behalf of such owner, owners, mortgagee or mortgagees in connection with the enforcement of any applicable code, ordinance, local law, regulation or statute. The agent for service of process must maintain an office or reside in Orange County, New York.
 - (5) The name, street address, telephone number and e-mail address of the firm or individual responsible for maintaining the property. The individual or representative of the firm responsible for maintaining the property must maintain an office or reside within Orange County, New York and shall be available by telephone or in person on a twenty-four-hour per day, seven day per week basis.

- (6) A statement or plan as to what will be done to secure the structure and property so that it will not become open to the general public.
- (7) The status of water, sewer, natural gas and electric utilities winterization of pipes at the structure and property.

§213-3 Notices.

- A. By designating an authorized agent as set forth above under the provisions of this chapter, the owner consents to receive any and all notices of Code violations concerning the registered abandoned or vacant property and all process in any Court proceeding or administrative enforcement proceeding brought to enforce Code provisions concerning the registered building or property by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the owner's designation for the purpose of this section until the owner notifies the Building Official/Code Enforcement Officer of the Village of Walden in writing of a change of authorization or until the owner files a new annual registration statement.
- B. Any owner who fails to register an abandoned or vacant property under the provisions of this chapter shall further be deemed to consent to receive, by posting at the building, any and all notices of Code violation and all processing of administrative or legal proceedings brought to enforce Code provisions or other laws or regulations concerning the structure or property.

§213-4 Obligation of owners.

The owner of any structures that become abandoned or vacant property and any person designated as an agent or responsible for maintaining such structure or vacant property shall within 30 days of the structure becoming abandoned or vacant or 30 days of the owner or mortgagee taking title to the property, whether or not the deed for said property has been recorded with the Orange County Clerk:

- A. Close and secure the structures owned by or mortgaged to the applicant as imposed by this chapter and/or the State of New York or as set forth in the rules and regulations provided by the Building Official/Code Enforcement Officer of the Village of Walden.
- B. Insure that the grounds of the structure, including yards, fences, sidewalks, walks and driveways, are well maintained and kept free from trash or debris.
- C. Post a sign affixed to the structure with a name, address and telephone number of the owner and/or mortgagee and the owner and/or mortgagees authorized agent for the purposes of service of process and the name, address and telephone number of the entity responsible for the maintenance of the property. The sign shall be at least 18 inches by 24 inches in dimension and shall include the words "To Report Problems with this Building/Property Call and/or E-mail" and shall be placed in a location where it is clearly legible from the nearest public street or sidewalk, whichever is nearer.

- D. Maintain the structure in a secured and closed condition, keep the grounds in a clean and well maintained condition and insure that the sign is visible and intact until the building is again occupied or demolished or until repair or rehabilitation of the building is complete.
- E. All vacant real property shall at all times be properly maintained. A vacant building or structure shall be considered properly maintained if:
- (1) It has all doors and windows and other openings weather-tight and secured against entry by the general public as well as animals.
 - (2) All roof and roof flashings shall be sound and tight such that no rain will penetrate the structure and must allow for appropriate drainage so as to prevent deterioration of the interior walls or other interior portions of the building. No temporary measures shall be permitted such as tarps, canvas, plastic, boards, etc. Temporary boarding of windows may be permitted upon application and consent by the Building Official of the Village of Walden. The Building Official shall have the discretion to determine how long boarding may be permitted.
 - (3) The building must be maintained in good repair, be structurally sound and free from rubbish, garbage, and other debris.
 - (4) Structural members of the building shall be capable of bearing both live and dead loads and the foundation walls likewise shall be capable of supporting an appropriate load.
 - (5) The exterior of the structure shall be free of loose or rotten materials as well as holes. Any exposed metal, wood or other surface shall be protected from the element by appropriate weather-coating materials (paint or similar treatment).
 - (6) Any balconies, canopies, signs, metal awnings, stairways, fire escapes or other overhanging extensions shall be in good repair, appropriately anchored. The exposed metal and wood surface of such overhanging extensions shall also be protected from the element against rust or decay by appropriate application of paint or similar weather-coating.
 - (7) Any accessories or appurtenant structures, including but not limited to garages, sheds, other storage facilities and appurtenant sidewalks, shall meet the same standards.
 - (8) The property contains a posting with the name and twenty-four-hour contact phone number of the local individual or property Management Company responsible for the maintenance. This sign must be posted on the front of the property so it is clearly visible from the street.
 - (9) All bushes must be trimmed so as to provide an unobstructed view of the front of the house from the public roadway.
 - (10) All combustibles must be removed from the interior of all buildings and the exterior of the property.
 - (11) Smoke and carbon monoxide detectors are installed and maintained in operable condition at all times.

- (12) The Building Official/Code Enforcement Officer of the Village of Walden is provided with proof of inspection of the premises by the agent or responsible party at least every 30 days after the abandonment commences.

§213-5 Inspections.

The Building Official/Code Enforcement Officer, fire inspector and/or Police Department shall have the authority to inspect properties subject to this statute for compliance with same and to issue citations for any violations.

§213-6 Certification of abandonment.

Upon the Building Official/Code Enforcement Officer or his/her designee determining a property has been abandoned, he/she shall cause a certification of abandonment to be filed with the Building Department's records and such certification shall be served upon the owner of the premises either personally or by posting a copy of the certification in a conspicuous place on the property and by mailing a copy by certified mail to the owner(s) last known address.

- A. Upon the Building Official/Code Enforcement Officer filing a certification of abandonment, the Building Official/Code Enforcement Officer, Police Department and/or Fire Inspector may, without further notice to the owner, take necessary steps to ensure the property and/or dwelling is properly maintained pursuant to this chapter. Costs incurred under this section shall be paid out of the municipal treasury on certificate of the Building Official/Code Enforcement Officer. Such costs shall be charged against the land on which the building existed, as a municipal lien, or shall be added to the tax roll as an assessment or shall be levied as a special tax against the land upon which the building stands or stood or shall be recovered in a suit at law against the owner.
- B. The owner of a property declared abandoned may petition the Building Department to remove the certification of abandonment by providing proof to the Building Official/Code Enforcement Officer that the basis of the certificate of abandonment no longer exists and the owner is in compliance with this chapter.

§213-7 Registry.

- A. The Village of Walden shall establish a registry of all properties registered with the Village under this chapter and shall include a procedure by which citizens can provide the Building Official/Code Enforcement through electronic means with information on unregistered properties that may be subject to this chapter.
- B. New owners shall register or re-register the abandoned or vacant building or properties with the Building Official/Code Enforcement Officer within 30 days of any transfer of ownership interest

in the abandoned or vacant building or property whether or not the deed to said property has been recorded with the Orange County Clerk.

§213-8 Fees.

- A. The owner/mortgagee of a vacant or abandoned building or property shall pay an annual fee of \$1,000 for the first year the building remains vacant or abandoned or any portion of said year. The fee shall cover the administrative costs for registering and processing the vacant or abandoned building or property and the cost for the Village in monitoring the abandoned or vacant property or building. The fee shall be paid upon filing of the registration form as required by this chapter. Subsequent annual fees shall be:
- (1) For the second year the building remains abandoned or vacant: \$1,500
 - (2) For the third year the building remains abandoned or vacant: \$2,000.
 - (3) For the fourth year the building remains abandoned or vacant: \$2,500.
 - (4) For the fifth year the building remains abandoned or vacant: \$3,000.
 - (5) For the sixth year the building remains abandoned or vacant: \$3,500.
 - (6) For the seventh year the building remains abandoned or vacant: \$4,000.
 - (7) For the eighth year the building remains abandoned or vacant: \$4,500.
 - (8) For the ninth year the building remains abandoned or vacant: \$5,000.
 - (9) For the tenth year the building remains abandoned or vacant: \$5,500.
- B. For ownership interest in any abandoned or vacant property whether or not the deed has been recorded with the Orange County Clerk. The owners shall be responsible for any unpaid fees.

§213-9 Exceptions.

- A. A building or property which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of 180 days after the date of the fire or extreme weather event if the property owner/mortgagee submits a request for exemption in writing to the Building Official/Code Enforcement Officer of the Village of Walden. This request shall include a description of the property; the names and addresses of the owner and/or mortgagee; a statement of intent to repair and re-occupy the building in an expedient manner or intent to demolish the building.
- B. Additional exceptions to this statute shall be if in the sole and reasonable discretion of the Building Official/Code Enforcement Officer the property is subject to any one or more of the following:
- (1) A valid open building permit being pursued with diligence;

- (2) A pending land use application including site plan, subdivision or special permit application being pursued with diligence;
- (3) A pending application to a governmental body being pursued with diligence for an approval pertaining to the physical improvement of the property;
- (4) Utilization of the building by the Village of Walden on a temporary basis not to exceed 12 months for Village purposes including but not limited to fire training.

§213-10 Penalties for offenses.

If an owner shall violate any portion of this chapter, they shall be subject to a fine of not more than \$500 or 30 days in jail, or both. Each day a violation continues shall be deemed a separate offense.

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.