

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
Village
Village

Local Law No. 5 of the year 2024

A local law creating a new Chapter 132 of the Village Code of the Village of Walden, New York, requiring utility companies to remove inactive, broken or replaced utility poles within the Village.

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

of the
County
City
of Walden as follows:
Village

Section 1. Title

A Local Law creating a new Chapter 101 entitled “Double Utility Poles, removal of,” of the Village Code of the Village of Walden, New York, requiring utility companies to remove inactive, broken or replaced utility poles within the Village.

Section 2. Amendment to Village Code.

The Village Code of the Village of Walden is hereby amended by the addition of Chapter 132 as follows:

Chapter 132. Double Utility Poles, Removal of

§ 132-1. Findings; applicability, legislative intent.

A. The Village Board hereby finds and determines that public utility companies place poles on Village of Walden highways, streets, roads, sidewalks and rights-of-way to facilitate the delivery of electric, telephone, cable television, and other telecommunications services to the residents of the Village of Walden.

B. The Village Board finds and determines that local governments have the authority to regulate their highways, streets, sidewalks, roads and rights-of-way to protect the public.

C. The Village Board finds and determines that utility poles are damaged from time to time.

D. The Village Board finds and determines that public safety can be compromised when utility lines and equipment remain affixed to utility poles that are weathered or otherwise damaged.

E. The Village Board finds and determines that when a new pole is installed, a utility's delay in removing lines and equipment from the old pole also delays the removal of the pole itself, which causes a proliferation of aesthetically unpleasant double poles along highways, streets, roads, and rights-of-way, as well as obstructing the paths of pedestrians.

F. The Village Board finds and determines that the interest of the public is best served by cooperation and communication between public utilities and the Village Board.

G. In enacting this chapter, the Village Board deems this chapter to be an exercise of the inherent power of the Village of Walden for the preservation and protection of public safety and is enacted pursuant to the authority contained in the Highway Law, Village Law, and Municipal Home Rule Law of the State of New York.

H. Therefore, the purpose of this chapter is to require utilities that use Village highways, streets, sidewalks, roads and rights-of-way to promptly remove their plants, cables, lines, equipment, and terminals from old and damaged poles and to further require the prompt removal of double poles once all plants, cables, lines, equipment, and terminals have been removed.

- I. It is the intent of the Village Board that this Chapter shall apply to all utility poles in the Village, whether they are in existence at the time of adoption of this Chapter or whether they are installed after adoption of the Chapter.

§ 132-2. Definitions.

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

DANGEROUS/DAMAGED POLE

Any utility pole that is structurally compromised due to weather, a traffic incident, and/or age and poses a potential threat to public safety.

DOUBLE POLE

Any old utility pole which is attached or in close proximity to a new utility pole.

PLANT

The cables, terminals, conductors and other fixtures necessary for transmitting electric, telephone, cable television or other telecommunications service.

PUBLIC UTILITY

Any corporation, authority, or other entity that provides electric, telephone, cable television, or other service, including telecommunications service, to the residents of the Village of Walden.

SUPERINTENDENT OF PUBLIC WORKS

The Village of Walden Superintendent of Public Works or his/her designee. The use of the term "Superintendent of Public Works" in this Chapter shall be deemed to include the designee of the Superintendent wherever said term is used.

UTILITY POLE

A column or post used to support service lines for a public utility.

WRITTEN NOTIFICATION/WRITTEN NOTICE

A writing directed to a representative of a public utility, who may be designated by the utility to receive such notice, sent by regular mail, facsimile transmission or electronic mail.

§ 132-3. Permit requirements.

No person, firm or corporation subject to the jurisdiction and regulation of the New York State Public Service Commission ("PSC") shall place or erect any pole for any purpose on any Village highway, street, road, sidewalk or right-of-way of said Village, or change the location of any existing pole on any Village highway, street, road, sidewalk or right-of-way of said Village, without first having provided notification to the Village through the PSC required accepted electronic notification system being utilized by said utilities.

§ 132-4. Department notification; time frame for removal.

A. When the Superintendent of Public Works is properly notified of the pending installation of a utility pole which is directly next to or in close proximity to another utility pole on a Village highway, street, road, sidewalk or right-of-way, the Superintendent of Public Works will provide written notice to the public utility which has the top plant on the double pole that the plant must be removed within 30 days of the date set forth on the notice provided by the Superintendent of Public Works or be subject to penalty. Upon the removal of each plant, the Superintendent of Public Works shall provide written notice to the public utility that owns the subsequent plant on the pole that the plant must be removed within 30 days or be subject to penalty. The last utility to remove its plant is responsible for removing the double pole within an additional 30 days. Failure to comply with the requirements of this provision shall result in penalties as provided for in this chapter.

B. When the Superintendent of Public Works determines that a utility pole on a Village highway, street, road, sidewalk or right-of-way is damaged and poses a potential threat to public safety, the Superintendent of Public Works shall provide written notice to any public utility with a plant on the damaged pole that it must remove its plant from the pole within 15 days of the date set forth on the notice provided by the Superintendent of Public Works or be subject to a penalty as provided for in this chapter. The last utility to remove its plant is responsible for removing the double pole. Failure to comply with the requirements of this provision shall result in penalties as provided for in this chapter. The effected utility may present documentary evidence to the Village in the form of a report from a licensed engineer certifying that the plant and/or pole is not a threat to public safety within ten (10) days from the date of the Superintendent's notification. In the event that the Superintendent is satisfied that the plant and/or pole no longer poses a threat to public safety, he shall have the discretion to withdraw the removal notice.

C. When the Superintendent of Public Works determines that a double pole is on a Village highway, street, road, sidewalk or right-of-way, the Superintendent of Public Works shall provide written notice to the public utility which has the top plant on the double pole, as well as to the New York State Public Service Commission, that the plant must be removed within 30 days or be subject to penalty. Upon the removal of each plant, the Superintendent of Public Works shall provide written notice to the public utility that owns the subsequent plant on the pole that the plant must be removed within 30 days or be subject to penalty. The last utility to remove its plant is responsible for removing the double pole within an additional 60 days. Failure to comply with the requirements of this provision shall result in penalties as provided for in this chapter.

D. Whenever this chapter requires the removal of a pole, the word “removal” shall be construed to mean the complete removal of the pole. Reducing the height of a pole shall not be permissible in those instances where removal is required.

E. Immediately upon removal of the pole as provided herein, the area within which the pole was located as well as the area affected by the removal of the pole shall be repaired and restored to condition that is equal to or better than existed before the pole was installed.

§ 132-5. Extensions authorized; temporary emergency suspension.

A. Notwithstanding any provision of this chapter to the contrary, the Superintendent of Public Works may extend the time frame of any written notice provided under this chapter for an additional period not exceeding the original statutory time frame set forth in this chapter. The public utility shall make a request for an extension in writing to the Superintendent of Public Works prior to the expiration of the time frame contained in the original written notice, together with the basis for the request. The Superintendent of Public Works shall determine whether the request for extension should be granted or denied, and provide a written response to the public utility. In such instances where the request is granted, the Superintendent of Public Works shall issue another written notice, which shall then be applicable instead of the previously issued notice.

B. In the event of an emergency that affects the repair, replacement, removal, or installation of utility poles or plants, the Village Manager may temporarily suspend the deadlines in this chapter for periods not exceeding 30 days.

§ 132-6. Penalties for offenses.

A. Any person, firm, corporation or public utility convicted of a violation of the provisions of this chapter shall be guilty of a violation, for a first conviction, punishable by a fine not exceeding \$1,000.00 for each pole that has not been properly removed as required by the chapter; for a second or subsequent conviction, punishable by a fine not exceeding \$2,000.00 for each pole that has not been properly removed as required by the chapter; Every day that the violation continues shall be deemed a separate violation.

B. Any public utility found guilty of violating this Chapter and that fails to remove its plant from a damaged pole within 15 days of receiving notification from the Village, pursuant to this Chapter, shall be punished by a fine of up to \$1,000.00 for each such violation. Each day that the violation continues shall be deemed a separate violation. Notwithstanding anything to the contrary contained in this

Chapter, no such fines or penalties shall be assessed for violations of this Chapter that occur within six (6) months as a result of natural disasters, major weather events and similar circumstances affecting the Village.

C. Any public utility that fails to remove a double pole within 90 days of receiving notification from the Village, pursuant to this Chapter, shall be punished by a fine of \$1,000.00 per pole per full calendar month that the violation continues.

D. If a person, firm or corporation or public utility violates the provisions of this chapter, the Village Attorney may commence an action in the name of the Village of Walden in a court of competent jurisdiction seeking any remedy provided by law or equity, including any civil and/or injunction proceeding necessary to enforce compliance and/or enjoin noncompliance with this chapter. Such action will seek to remove damaged poles and/or double poles, or to remove a plant or plants from such poles, the imposition of civil penalties as authorized by this chapter, the recovery of costs of the action and such other remedies as may be necessary to prevent or enjoin a dangerous condition from existing on a Village highway, street, road, sidewalk or right-of-way.

§ 132-7. Applicability.

A. This chapter shall apply to all utility poles located on any Village highway, street, road, sidewalk or right-of-way, and to all utility poles installed hereafter.

B. The provisions of this chapter shall be deemed to supplement applicable state and local laws, ordinances, codes and regulations; and nothing in this chapter shall be deemed to abolish, impair, supersede or replace existing remedies of the Village, county or state or existing requirements of any other applicable state or local laws, ordinances, codes or regulations. In case of conflict between any provision of this chapter and any applicable state or local law, ordinance, code or regulation, the more restrictive or stringent provision or requirement shall prevail.

Section 3. Severability

If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, 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

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