

A local law to amend the Code of the Village of Rockville Centre, in relation to conditions of off-street parking variances or waivers.

Section one. The Board of Trustees ("Board") hereby finds that various properties in the Village are unable, or claim to be unable, to comply with the Village Code requirements to provide off-street parking spaces. In proper cases the Board of Appeals ("Zoning Board") has authority to vary or waive such requirements in whole or in part, or to permit parking spaces to be provided at locations other than the location where such spaces are required by the Code. The Board is concerned that the granting of such relief from the off-street parking requirements in the Code contributes to traffic congestion in the non-residential districts in the Village, and exacerbates the existing shortage of public parking. The Board recognizes that such relief from the Zoning Board is sometimes necessary in accordance with general principles of zoning and land use law, but finds that it is appropriate in such cases for the Zoning Board to require as a condition of granting such relief to require reasonable benefits to the Village. The Board of Trustees further finds that in cases where such relief is appropriate, applicants who obtain such relief should be required to provide a compensating benefit to the Village to facilitate efforts by the Village to maintain and increase the availability of off-street parking in the Village. This legislation is intended to require recipients of such zoning relief to make payments to the Village in lieu of providing such required off-street parking, to assist and enhance the ability of the Village to maintain and enhance public parking in the Village. In order to reduce the impact of such payment requirements on small businesses, the Board further finds that such payment requirements should be applicable only where an off-street parking variance is granted for more than ten parking spaces.

Section two. Exercise of Municipal Home Rule Law authority. This local law is enacted in the exercise of the authority of the Village pursuant to Municipal Home Rule Law §10(1)(ii) (e) to amend or supersede the provisions of the Village Law relating to the property, affairs or government of the village or to other matters in relation to which and to the extent to which the Village is authorized to adopt local laws, notwithstanding that such provision is a general law, where the State Legislature has not expressly prohibited the adoption of such a local law. As hereinafter provided, this local law is intended to amend and supplement the provisions of Village Law §7-712-a(4). ,

Section three. Section 340-140(D) of the Code of the Village of Rockville Centre is hereby amended, by adding thereto the following paragraph, to be paragraph (8), to read as follows:

"(8) In any case where the Board of Appeals determines in accordance with applicable law that it is appropriate to grant a variance, waiver or other relief which results in the permissible use of a premises or building in a non-residential zoning district with less than the off-street parking otherwise required by this Code for such use, the Board of Appeals may impose conditions reasonably related to such variance, waiver or other relief.

(i) In addition to such authority, and in addition to its powers pursuant to Village Law 7-712-b(4), in each such case to which this paragraph (8) is applicable the Board of Appeals shall impose as a condition of any such relief a requirement that the applicant make a payment to the Village, in an amount established from time to time by resolution of the Board of Trustees, for each parking space for which such relief is granted in excess of ten (10) spaces per property. The Board of Trustees may establish such required payments in different amounts for different classes of uses, and may revise the amount of such per space payments from time to time. In determining the amount of such in lieu payments, , the Board of Trustees shall consider, among other factors, the estimated current cost of providing a parking space. All such payments to the Village shall be maintained in a separate fund and shall be used only for the planning, design, acquisition, development, construction, installation, maintenance and/or improvement of public parking in the Village as may be determined by the Board of Trustees in its sole discretion.

(ii) when such required payment has been made in full, the relief granted from off street parking requirements thereafter shall remain in effect so long as the use of the subject property is not changed to any use which would require a greater number of off street parking spaces than are required for the use for which the variance or waiver was granted. Any change of use which requires off street parking in excess of the number for which the variance or waiver was granted shall not be permitted except pursuant to a further or additional variance or waiver. No refund of such payment shall be made where there is a change of use requiring fewer off street parking spaces..

(iii) any such required "in lieu" payment shall be made in one lump sum, prior to issuance of a building permit, provided, however, that the Board of Appeals shall have authority in its sole discretion to direct a different payment schedule for such payment provided that all such payments shall be required to be made prior to issuance of a certificate of occupancy or completion..

(iv) each application to the Board of Appeals for relief from off-street parking requirements shall be deemed to include the consent of the applicant to the imposition of "in lieu" payment pursuant to this section.

(v) neither the provisions of this section, nor the availability of required "in lieu" payments where parking requirements are varied or waived, shall serve as or constitute a basis or ground for any application for a waiver or variance of otherwise applicable off-street parking requirements. All applications for such variances or waivers shall be determined based upon the appropriate standards for such relief as otherwise established by law."

Section three. Any local law or provision of the Code of the Village of Rockville Centre in conflict with this local law is hereby repealed to the extent of such conflict, except that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of such local law, ordinance or resolution prior to the effective date of this local law.

Section four. If any clause, sentence, paragraph, section, article, or part of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence,

paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section five. This local law shall apply to any building permit or zoning variance application pending on, or filed after, the effective date of this law.

Section six. This local law shall take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law.