

# 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 ☐ Town ☒ Village  
(Select one:)

of Rockville Centre

Local Law No. 1 of the year 2014

A local law to amend the Code of the Village of Rockville Centre, to require

(Insert Title)

Substantial Occupancy permits for certain uses with actual or potential

Occupancy of at least fifty persons.

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

☐ County ☐ City ☐ Town ☒ Village  
(Select one:)

of Rockville Centre as follows:

Section one. Findings and Purpose.

The Board of Trustees of the Village of Rockville Centre hereby finds and determines that certain uses of property in the Village cause or have the potential to cause traffic congestion, noise, and other adverse effects in the Village to the detriment of the public health, safety and general welfare such that such uses should be reviewed and approved before they commence, or are altered, expanded or enlarged in the Village. To the extent that such uses do not currently require special use permits or conditional use permits from any reviewing board or agency of the Village, the Board of Trustees finds and concludes that the public interest would be served by requiring future such uses, and expansion of existing uses, to obtain Substantial Occupancy Permits as provided herein.

In recent years Rockville Centre has experienced traffic congestion and occasional shortages of parking in its commercial areas. The Village zoning regulations and other operational restrictions seek to balance the need for protection of the public with the need to encourage businesses to locate and prosper in the Village. As a result, most businesses are permitted to open in Rockville Centre as of right, although particular business models may not provide adequate customer parking or may create unwanted traffic congestion. In addition, existing businesses operating lawfully, with approved occupancy levels of 50 or more, occasionally change ownership, change format, or seek to expand, and the Village finds a

need to encourage them to do so while at the same time protecting the public. It is the intent of the Board of Trustees through this legislation to balance these concerns.

This legislation will require new businesses in various categories, with projected occupancies of 50 or more, to obtain permits from the Zoning Board of Appeals where the existing business at the same location did not already have an permitted occupancy of 50 or more. Where a new business with approved occupancy of less than 50 is proposed, or where an existing business with occupancy less than 50 is being sold or converted to a new business also having an occupancy less than 50, no permit is required by this legislation.

Existing small businesses in the categories set forth in this section, with designated occupancies of less than 50, will require Board of Appeals permission to expand to occupancy levels of 50 or greater. This required review will afford an opportunity to consider the level of traffic congestion, available parking and other appropriate factors to assess whether the proposed new or expanded use would adversely affect the Village of Rockville Centre, and whether reasonable conditions should be imposed to protect the public.

Section two. The Code of the Village of Rockville Centre is hereby amended, by adding thereto the following section, to be section 340-118.2, to read as follows:

“§ 340-118.2. Substantial Occupancy Required.

A. Notwithstanding any other provision of this chapter, the following uses, where otherwise authorized by law and where not otherwise required to obtain a special use permit or conditional use permit from the Board of Trustees, Planning Board or Board of Appeals of the Village, shall not be commenced, and no existing such use may be enlarged or expanded, without first obtaining a Substantial Occupancy Permit from the Board of Appeals where the actual or projected maximum occupancy of the premises where such use is located, as determined by the Superintendent of Building Department, is at least fifty persons:

1. restaurant and/or bar;
2. theater;
3. nightclub;
4. cabaret;
5. café;
6. any other place of business serving food or beverage for on-premises consumption, whether or not such business also serves food or beverage for off-premises consumption;
7. multi-family residence or dwelling;
8. hospital or skilled nursing facility;
9. medical office building (for the purposes of this section, a “medical office building” shall be defined as an office or building where medical services or treatment is provided, or where medical testing is performed, and where at least 40% of the floor area of such office or building is used to provide such services or testing. Portions of such office or building which are used solely for billing, medical equipment sales, or other back office activities shall not be included in the calculation of floor area used to provide medical services or testing);
10. hotel or motel.

B. This section shall not apply to any premises in which a use included in paragraph A is lawfully located and operating on the date of adoption of this law, provided that such use is not thereafter changed to a different use than the one which existed on such date, nor altered, expanded or enlarged to a portion of the premises where such use did not lawfully exist on



such date.

C. Supersession of State law. Notwithstanding the provisions of Village Law 7-725-b, the Substantial Occupancy Permit required by this law shall not be considered 'special use permits' as defined in the Village Law. To the extent Village Law 7-725-b defines such permits as "special permits" Village Law 7-725-b is hereby superseded in its application to such permits.

D. The Zoning Board of Appeals shall have authority to grant Substantial Occupancy Permits required by this section.

(1) Unless otherwise determined by the Board of Appeals pursuant to this section, no Substantial Occupancy Permit may be granted by the Board of Appeals without a public hearing. Within thirty days after the filing of a complete application for such permit, the Board of Appeals may determine, in its sole discretion, that it is reasonable and appropriate to waive the requirement for such hearing and where the Board determines that no public hearing is required, the Board shall issue its determination with respect to such Substantial Occupancy Permit application within fifteen days after making such determination not to hold a public hearing.

(2) Where a public hearing is not waived pursuant to this section, the public hearing shall commence within forty-five days after the filing of a completed permit application, and shall conclude within thirty days after the hearing is commenced. The Board of Appeals shall make its determination to issue or deny any such permit application within five days after conclusion of a public hearing on the application.

(3) The time periods provided in this section may be extended or amended by agreement between the Board of Appeals and the applicant.

E. Unless the Board of Appeals determines that the use for which the Substantial Occupancy Permit is proposed is not requisite in the interest of the public, health, safety or general welfare, or is inappropriate to the particular location for which such permit is sought, the Board of Appeals shall approve the Substantial Occupancy Permit. In approving any such Substantial Occupancy Permit application, with or without a public hearing, the Board of Appeals may impose such reasonable conditions and restrictions as such Board shall determine are reasonably necessary to protect the public, health, safety or general welfare. Such conditions shall be directly related to or incidental to the proposed permit and to the use authorized by such permit, including reasonable restrictions on times and manner of operation and upon the term of the Substantial Occupancy Permit. The issuance of a Substantial Occupancy Permit pursuant to this section shall not relieve any person from obtaining any permits, certificates of occupancy and/or compliance, or similar permits or approvals as may be required by law. Any person conducting or operating, or causing or permitting the operation of, any use or business pursuant to a Substantial Occupancy Permit granted pursuant to this section shall comply with the terms and conditions of such Substantial Occupancy Permit.

F. Where the Board of Appeals conducts a public hearing on a permit application pursuant to this section, public notice of said hearing shall be published in a newspaper of general circulation in the village at least five days prior to the date thereof, and the applicant shall mail notice of such hearing in the same time and manner as required for applications to the Board of Appeals for variances.

G. Each decision of the Board of Appeals pursuant to this section shall be filed in the office of the Village Clerk promptly after such decision is rendered, and a copy thereof mailed to the



applicant.

H. Compliance with state environmental quality review act. A Substantial Occupancy Permit required by this section shall be deemed to be a Type II Action pursuant to the New York State Environmental Quality Review Act pursuant to Article eight of the Environmental Conservation Law and its implementing regulations, and no environmental assessment form shall be required for such Substantial Occupancy Permit application. Notwithstanding the foregoing, the Board of Appeals may consider any relevant environmental factor in making its determination whether to approve a Substantial Occupancy Permit, or whether to impose conditions upon any approved Substantial Occupancy Permit.”

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 take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law.

---

**(If additional space is needed, attach pages the same size as this sheet, and number each.)**

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2014 of the ~~(County)(City)(Town)~~(Village) of Rockville Centre was duly passed by the Board of Trustees on March 3 2014, in accordance with the applicable *(Name of Legislative Body)* provisions of law.

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the ~~(County)(City)(Town)~~(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the ~~(County)(City)(Town)~~(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the ~~(County)(City)(Town)~~(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_. Such local *(Elective Chief Executive Officer\*)* law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.



**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph, 1 above.

\_\_\_\_\_  
~~Clerk of the county legislative body, City, Town or Village Clerk or~~  
~~officer designated by local legislative body~~

(Seal)

Date: March 3, 2014

