

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 2018

A local law to amend the Code of the Village of Rockville Centre, in relation to
(Insert Title)
Procedures of the Board of Appeals.

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. Section 340-130 of the Code of the Village of Rockville Centre is hereby renumbered as section 340-142.1, and amended, to read as follows:

"§ 340-142.1. Deliberations and determinations of the Board of Appeals.

A. Whenever under the provisions of this chapter or the Village Law of the State of New York any matter is referred to the Board of Appeals to hear and decide or upon which it is required to pass, or when its approval, consent or permit is required, it shall confine itself to a consideration of the health, safety, morals and general welfare of the community in harmony with the general purpose and intent of this chapter, and such other considerations as may be applicable pursuant to the Village Code or the Village Law.

B. Each such determination by the Board of Appeals shall be made in accordance with the Village's Comprehensive Plan and design, and shall include considerations of relevant factors to, and conditions reasonably necessary to, lessen congestion in the streets; secure safety from fire, panic and other dangers; promote the health and general welfare; provide adequate light and air; prevent overcrowding of land; avoid undue concentration of population; and facilitate the adequate provisions of transportation, water, sewerage, schools, parks and other public requirements.

C. The deliberations and determinations of the said Board shall be made with reasonable

consideration, among other things, of the character of the district and its peculiar suitability to the particular uses, and with a view to conserving the value of building and property generally, and encouraging the most appropriate use of land throughout the Village. "

Section two. Sections 340-140, 340-141 and 340-142 of the Code of the Village of Rockville Centre, are hereby amended to read as follows:

"§ 340-140. Powers and duties.

A. Board of Appeals.

(1) In accordance with Village Law § 7-712(2) the Mayor shall appoint members of the Board of Appeals and the Chairperson, subject to the approval of the Board of Trustees, to serve for terms of five (5) years each. At the expiration of each term, the succeeding member shall be appointed for a term of five (5) years. Any vacancy on the Board of Trustees shall be filled in the same manner, for the remainder of the unexpired term. The Board of Appeals shall hear and decide appeals from and review any order, requirement, decision or determination made by an administrative officer or board charged with the enforcement of this chapter. The Board of Trustees may also appoint a counsel or legal advisor, and the Secretary (Clerk) for the Board of Appeals. The Board of Appeals shall also hear and decide all matters referred to it or upon which it is required or authorized to pass pursuant to the Village Code or the Village Law of the State of New York. Such appeal may be taken by a person aggrieved or by any officer, department, board or bureau of the Village. Such Board of Appeals shall have all the rights, powers and duties granted to or imposed upon it by the Village Law of the State of New York. Such Board of Appeals may determine and vary the application of the regulations herein contained, in harmony with their general purpose and intent in accordance with the general and specific rules herein contained, as provided in the Village Law.

(2) Alternate members.

(a) In accordance with Village Law § 7-712, Subdivisions 11(a) through (c), the Board of Trustees may appoint alternate members of the Board of Appeals for purposes of substituting for a member who is unable to participate in any matter because of a conflict of interest, protracted absence or other cause. The Board of Trustees shall appoint such alternate members in a number sufficient to meet the needs of the Village, for terms of one (1) year each.

(b) The Chairperson of the Board of Appeals shall designate such alternate members to serve on a rotating basis, to substitute for a member who is unable to participate because of a conflict of interest, protracted absence or other reason with respect to any one or more applications or matters before the Board. When so designated, the alternate member shall possess all the powers and responsibilities of the member of the board replaced by such alternate, and all the provisions of the Village Law relating to Board of Appeals member training and continuing education, attendance, conflict of interest, compensation, eligibility, vacancy in office, removal and service on other boards shall also apply to alternate members. When a designation is made by the Chairperson of the Board of Appeals, it shall be entered into the minutes of the Board of Appeals meeting at which the substitution is made.

B. Such Board of Appeals may make rules to govern procedure in matters before it, consistent with the provisions of law and this Village Code. Such rules may require that the applicant or appellant give such notice of a pending proceeding as the Board may prescribe to the owners of such adjacent or surrounding property as the Board may deem to be affected thereby, and file with the Board proof of the service of such notice.

C. Such Board of Appeals shall not require any applicant or appellant appearing before it to

obtain the signature or consent of any person residing or having property in the vicinity of the property described in the application or the appeal as a condition of granting relief. Determinations of the Board whether to grant relief in any matter shall be made based upon the considerations specified by law and in this Code, and shall not be dependent upon the consent or agreement of any person or entity other than a person or entity who is the owner of the property, or property interest, which is the subject of such matter.

D. In addition to the powers enumerated herein, but not in limitation thereof, the Board of Appeals may, in specific cases, after public notice and hearing, and subject to appropriate conditions and safeguards, determine and vary the application of the regulations herein established, in harmony with their general purpose and intent, as follows:

(1) Approve the issuance of a permit wherever it is provided in this chapter that the approval of the Board of Appeals is required.

(2) Permit the erection of a building and accessory buildings on lots having less than the frontage or area required in the use district in which the property is located.

(3) Where a district boundary line divides a lot held in single and separate ownership, the Board of Appeals may permit the use authorized on either portion of the lot to extend to the entire lot but not more than 50 feet beyond the boundary line of the district in which such use is authorized.

(4) Parking in residence zone.

(a) Permit the use of property in Residential A Zone that abuts premises zoned for business, for the parking of vehicles in connection with the business activity conducted upon such adjoining business property, provided that

[1] Any permit or permit renewal that is granted and any conditions that are imposed shall be in accordance with the standards set forth in § 340-130 of this chapter, and only upon an application made by the owner or owners of the abutting business property and of the property covered by the application.

[2] The property that may be used pursuant to a permit or permit renewal shall in no event extend to a distance greater than 100 feet from the abutting business property, or to the nearest street, whichever distance is shorter.

[3] Any permit or permit renewal granted under this section shall be for a period to be determined by the Board of Appeals, in its discretion, but in no event not more than three years. When a permit is issued for more than one year, the Zoning Board of Appeals shall require the submission of an annual report by the Building Department to the Zoning Board of Appeals with respect to the status and condition of the property and use.

[4] A permit or permit renewal granted pursuant to this section shall contain reasonable conditions and requirements as, in the sole discretion of the Board of Appeals, relate to the use of both the business and residential property, including but not limited to the type of parking field surface; parking arrangements; suitable entrances and exits; installation and/or maintenance of fencing or screening; location, enclosure and maintenance of refuse containers; cleanliness; safety; police and fire access; lighting; and signage, in keeping with neighborhood conditions.

(b) Applications made pursuant to Subsection (4)(a) shall contain photographic or other evidence from which the Board can determine whether the granting of the application for a permit or permit renewal will have an undue adverse effect upon the adjoining residential area into which the parking field is sought to be or has been established, and whether the establishment or continuation of such parking area will be beneficial or detrimental to the adjoining residential properties and neighborhood.

(c) Any permit granted hereunder shall be subject to revocation by the Board of Appeals upon submission to the Board by any interested party of evidence which the Board finds to be sufficient to prove a violation of any of the conditions upon which such permit was

granted.

(5) Permit the change, continuance or extension of a nonconforming use as provided in Article III of this chapter.

(6) Issue temporary and conditional permits to contractors or builders under such conditions as the Board shall prescribe for not more than one year for structures, signs and uses in contravention of the use regulations controlling residence districts, including signs, temporary offices and structures on a plot or tract in course of development, provided that such uses are important to the development of such undeveloped plot or tract, and also provided that such uses are not prejudicial to adjoining and neighboring plots or tracts already developed or proposed to be developed. Such structures and signs shall in any event be removed and such uses shall be discontinued within 30 days after completion of the work on the plot or tract.

(7) Permit the construction, extension, alteration or conversion of a building and the use of premises in the Business A District for the business of a public garage for the storage or repair of motor vehicles, or for the business of a motor vehicle or taxi service or of an automobile service or gas filling station, used-car lot, dry-cleaning establishment or of an amusement park or carnival, miniature golf course, bowling alley, shooting gallery, billiard or pool parlor or business of a similar nature; and in the Business B District, for the business of a dry-cleaning establishment, amusement park or carnival, shooting gallery or business of a similar nature, provided, however, that the Board of Appeals shall find and determine, in each instance, that such use of the premises will not be an annoyance, detriment, disturbance or nuisance to the neighborhood and will not imperil the safety of persons and property or prejudice the general health or welfare or the general plan and purpose of this chapter, and provided further that all other ordinances of the Village be complied with. The Board of Appeals, in passing upon applications for use of premises in Business A District for bowling alley use, shall in addition to the foregoing findings, in each instance, also find and determine before granting such application, the following:

(a) That the premises upon which a bowling alley use is requested are located at a sufficient distance from premises used for residential uses and/or zones so that such bowling alley use will not constitute an annoyance, detriment, disturbance or nuisance to such residential property.

(b) That sufficient parking space is available.

(c) That the building is constructed in such manner, including ventilation system, that such use creates a minimum of sound both within and without the building.

(d) That such use shall be operated in a manner so as not to disturb the use of any premises for religious purposes upon the Sabbath or other religious holidays.

(e) That such use of premises shall not constitute an undue burden upon the streets or roads so as to create a traffic hazard.

§ 340-141. Time limit to act upon variance.

Whenever a permit or variance is granted by the Board of Appeals, such permit or variance shall be acted upon to an extent required by law to obtain vested status, and, in the case of a structural permit or variance, completed, within the time set forth in the decision of the Board of Appeals, unless an extension shall be granted by the Board of Appeals upon application or on its own motion. Any such extension may be granted without public hearing, in the discretion of the Board of Appeals. If not so acted upon and completed within one year of the granting of the same, unless extended as aforesaid such permit or variance shall automatically expire without notice.

§ 340-142. Meetings.

Meetings of the Board of Appeals shall be public to the extent required by law. The Clerk to the Board shall keep minutes of its proceedings, showing the vote of each member upon every



question, or if absent or failing to vote, indicating that fact. The Clerk shall also keep a record of the examinations and other official actions of the Board. When required, the Board shall employ adequate stenographic assistance to make a proper record of proceedings and testimony before the Board. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, determination or decision of the Board shall promptly be filed in the office of the Board and shall be a public record to the extent provided by law."

Section three. Severability. If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances. The Board of Trustees of the Village of Rockville Centre hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section four. Pending Matters Not Affected. This Local Law shall not affect or impair any act done or right accruing, accrued or acquired, liability, penalty, forfeiture or punishment incurred or owing, or levy or assessment made, imposed or owing, prior to the time such amendment takes effect, but the same may be enjoyed, asserted, collected, enforced, prosecuted or inflicted as fully and to the same extent as if such amendment had not been effected. All actions and proceedings, civil or criminal, commenced under or by virtue of any provision of the Rockville Centre Village Code, or any other law, ordinance, resolution or regulation, and pending immediately prior to the taking effect of such amendment, may be prosecuted and defended to final effect in the same manner as they might if this law were not so enacted.

Section five. Repealer. All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section six. Effective Date. This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with 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 2018 of the ~~(County)~~(City)(Town)(Village) of Rockville Centre was duly passed by the Board of Trustees on February 5, 2018, in accordance with the applicable provisions of law.
(Name of Legislative Body)

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) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20__, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

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) (repassed after disapproval) by the _____ on _____ 20__.
(Name of Legislative Body)
(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) (repassed after disapproval) by the _____ on _____ 20__. Such local 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.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* 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: February 5, 2018