

(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 PLATTSBURGH  
~~Town~~  
~~Village~~

Local Law No. 5 of the year 1994  
ESTABLISHING TERMS OF OFFICE FOR ZONING BOARD OF APPEALS MEMBERS; PROVIDING  
A local law FOR ALTERNATE MEMBERS; AMENDING STANDARDS FOR GRANTING USE AND AREA VARIANCES.  
(Insert Title)

Be it enacted by the COMMON COUNCIL of the  
(Name of Legislative Body)

~~County~~  
City of PLATTSBURGH as follows:  
~~Town~~  
~~Village~~

1. City Code section 270-52 A (2) is amended in its entirety to read as follows:  
The Zoning Board of Appeals shall consist of seven regular members and two alternate members. The alternate members shall serve only in the absence of a regular member.
2. City Code section 270-52 A (3) is amended in its entirety to read as follows:  
The Mayor shall appoint the regular and alternate members of the Zoning Board of Appeals, subject to confirmation by the affirmative vote of three members of the Common Council. The Mayor shall appoint a chairperson of the Zoning Board of Appeals from among the regular members. No member of the Common Council or the Planning Board of the City of Plattsburgh shall be eligible for appointment to the Zoning Board of Appeals.
3. City Code section 270-52 A (4) is amended in its entirety to read as follows:  
Zoning Board of Appeals members whose terms expire in 1994 shall serve until December 31, 1994. Alternate members, members whose terms expire in 1994 or thereafter and who are reappointed, or their replacements, shall be appointed to a seven year term.

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

Standards for Granting Use and Area Variances

4. City Code Section 270-52 A (3) is amended in its entirety to read as follows:

(a). AREA OR DIMENSIONAL VARIANCES

Area variances may be granted where setback, frontage, lot size, density or yard requirements of this Code cannot be reasonably met. In making its determination the ZBA shall take into consideration the benefit to the applicant if the variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant. In making such determination the board shall also consider:

- (1) whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;
- (2) whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;
- (3) whether the requested area variance is substantial;
- (4) whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and
- (5) whether the alleged difficulty was self-created; which consideration shall be relevant to the decision of the board, but shall not necessarily preclude granting of the variance.

(b) GRANTING USE VARIANCES

No use variance shall be granted by the ZBA without a showing by the applicant that the zoning regulations and restrictions will impose an "Unnecessary Hardship". In order to prove such unnecessary hardship the applicant shall demonstrate to the ZBA that for each and every permitted use under the zoning law for the particular district where the property is located:

- (1) The applicant cannot realize a reasonable return on his investment in the property, provided that the lack of return is substantial and is demonstrated by competent financial evidence;
- (2) The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;
- (3) The requested use variance, if granted, will not alter the essential character of the neighborhood; and
- (4) The alleged hardship has not been self created.

(c) Additional Variance Requirements

- (1) In granting area or use variances the ZBA shall grant the minimum variance necessary and adequate to address the unnecessary hardship proved by the applicant, and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.
- (2) The ZBA may impose reasonable conditions and restrictions on the grant of area and use variances provided they are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the spirit and intent of the zoning

law, and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the neighborhood or community.

(3) No area or use variance shall be granted except upon the affirmative of four members.

(d) Definition of Terms. As used in this section:

(i) "Use Variance" shall mean the authorization by the Zoning Board of Appeals for the use of land for a purpose which is otherwise not allowed or is prohibited by the applicable zoning regulations.

(ii) "Area Variance" shall mean the authorization by the Zoning Board of Appeals for the use of land in a manner which is not allowed by the dimensional or physical requirements of the applicable zoning regulations.

5. This local law shall take effect immediately upon approval by the Mayor and filing with the New York Secretary of State.

(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. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, 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. 5 of 1994 of the ~~(County)~~(City)~~(Town)~~(Village) of PLATTSBURGH was duly passed by the COMMON COUNCIL, on OCTOBER 20 1994, and was (approved)~~(not disapproved)~~~~(repassed after disapproval)~~ by the MAYOR and was deemed duly adopted on OCTOBER 21 1994, 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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. 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 \_\_\_\_\_ 19\_\_\_\_, in accordance with the applicable provisions of law.  
(Name of Legislative Body) (Elective Chief Executive Officer\*)

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 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_, and was (approved)(not disapproved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 19\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 19\_\_\_\_, 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 chairman 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 19\_\_ 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 \_\_\_\_\_ 19\_\_, 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 19\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 19\_\_, 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 of 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 2, above.



KEITH A. HERKALO, CITY CLERK

Clerk of the County legislative body, City, Town or Village Clerk or officer designated by local legislative body

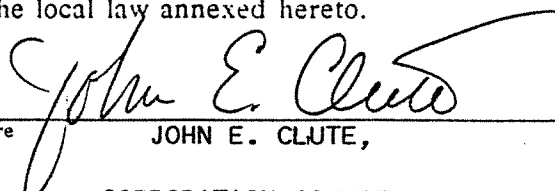
(Seal)

Date: 10 November 1994

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK  
COUNTY OF CLINTON

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature JOHN E. CLUTE,

Title CORPORATION COUNSEL,

~~County~~  
City of PLATTSBURGH  
~~Town~~  
~~Village~~  
~~XXXX~~

Date: 10 November 1994