

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 Remsen
- Town
- Village

STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
APR 23 2008

MISCELLANEOUS
& STATE RECORDS

Local Law No. 1 of the year 20 08

A local law Town of Remsen Minimum Lot Size and Requirements for Buildings Law
(Insert Title)

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

- County
- City of Remsen
- Town
- Village

as follows:

The full text of Local Law 1 for 2008, consisting of five (5) pages is fully annexed hereto

(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 20 08 of the ~~(County)(City)(Town)(Village)~~ of Remsen, NY was duly passed by the Town Board on March 12 20 08, 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) (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 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 one _____, above.

Robert E. Walter

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

(Seal)

Date: *Robert E. Walter* April 1, 2008

(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 New York

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.

A. [Signature]

Signature
Town Attorney
Title

~~County~~
~~City~~ of Remsen
Town
~~Village~~

Robert E. Walter

Date: April 1, 2008

**TOWN OF REMSEN, NEW YORK
LOCAL LAW NO. 1 OF 2008**

MINIMUM LOT SIZE AND REQUIREMENTS FOR BUILDINGS LAW

Be it enacted by the Town Board of the Town of Remsen, Oneida County, New York, as follows:

SECTION 1. TITLE: This Local Law ordinance shall be known as the "TOWN OF REMSEN MINIMUM LOT SIZE AND REQUIREMENTS FOR BUILDINGS LAW".

SECTION 2. PURPOSE OF LAW: The purpose of this law is to supersede, and thereby simplify and make consistent provisions of Ordinances #1 of 1987, #1 of 1990, and No. 1 of 1994. It is also intended to be consistent with and refer to the provisions of the Town of Remsen Subdivision of Land Law, Local Law No. 2 of 2007. The purpose of this law is to protect the public health, safety and welfare of the people of the Town of Remsen by providing adequate light and air, preventing the overcrowding of land, avoiding undue concentrations of populations, facilitating the adequate provision of transportation, water, sewage, schools, parks and other public requirements. This law is made taking into consideration, among other things, the character of the town and the particular use of the land contained therein, and with the view of conserving the value of the real property within the Town of Remsen.

Accordingly, ORDINANCE #1 OF 1987, ORDINANCE #1 OF 1990, and ORDINANCE NO. 1 OF 1994 are hereby repealed in their entirety.

SECTION 3. DEFINITIONS: As used in this local law:

(a) Accessory Building: A building subordinate to the principal building on a lot and used for purposes customarily incidental to those of the principal building.

(b) Building: The word "building" shall include: structure, dwelling, mobile home, trailer, and factory manufactured home and shall have the same meaning as set forth in the New York State Uniform Fire Prevention and Building Code, and the Town of Remsen "Ordinance Regulating Mobile Homes, House Trailers and Mobile Home Parks and/or Trailer Camps". Any structure with facilities for cooking and sleeping is a "building".

(c) Frontage, Front lot line: the boundary of a Lot parallel and adjacent to a public street or highway, private road right of way leading to a public street or highway or other governmentally approved place, or shoreline on a public water course.

(d) Lot: A parcel of land, considered as a unit, occupied or capable of being occupied by a building and having its principal frontage on a public street or an officially approved place, private road right of way, or shoreline.

(e) Lot Area: The total area included within the exterior boundaries of the lot. No part of the area within a public right-of-way may be included in the computation of lot area.

(f) Lot Width: The distance between side lot lines measured parallel to the front lot line at a distance from the front line equal to the front yard set back as specified in this ordinance.

(g) Person: Includes a natural individual, firm, trust estate, partnership, association or corporation.

SECTION 4. MINIMUM LOT SIZE REQUIREMENT: No person being the owner, occupant or lessee of any lot within the Town of Remsen shall use or permit the use of such lot for the construction or placement of a building, structure, dwelling, mobile home trailer, or factory manufactured home unless the lot owner has first obtained a permit as hereinafter provided. All applications for a permit shall be made to the Building Code Enforcement Officer. The permit shall not issue until the applicant has furnished a properly filled out application showing intended compliance with this and all other applicable Town Laws and Ordinances and New York State and Oneida County requirements, including water well set back requirements. The application procedure and fee shall be the same as set forth in the "Ordinance Regulating Mobile Homes, House Trailers and Mobile Home Parks and/or Trailer Camps", and shall be applicable to this law.

Nor shall any such person construct or place a building, structure, dwelling, mobile home, trailer or factory manufactured home on said lot within the Town of Remsen until they have obtained a building permit from the State of New York pursuant to the New York State Uniform Fire Prevention and Building Code.

Nor shall any such person construct or place a building, structure, dwelling, mobile home, trailer or factory manufactured home on said lot within the Town of Remsen if said lot was created after the effective date of the Town of Remsen Subdivision Ordinance and was not created in compliance with said Subdivision Ordinance.

No building, structure, dwelling, mobile home, trailer or factory manufactured home shall be constructed or placed upon a lot which is less than one acre in area or less than 150 feet in width. The building, structure, dwelling, mobile home, trailer or factory manufactured home will be so constructed or placed upon said lot so that it will not be closer than 50 feet from the front lot line nor 25 feet from the side lot lines nor 25 feet from the rear lot lines.

This law shall not apply to accessory buildings except that accessory buildings will comply with the lot set back requirements.

SECTION 5. PRE-EXISTING LOTS: One single family dwelling, mobile home or manufactured home shall be allowed to be built on any vacant lot which was on record on April 1, 1987, the date of adoption of Ordinance No. 1 of 1987, regardless of the area size of said vacant lot, or whether the vacant lot meets the minimum lot width requirement of said Ordinance No. 1 of 1987. For the purpose of this exemption, such lot must not adjoin other lots in the same ownership, provided, however, all such adjoining lots in the same ownership may be treated together as a one lot. The building must be placed on said lots so as to comply with the set back requirements of Section 4 of this law.

SECTION 6. VARIANCE:

(a) Variance Board of Appeals: The Town Board shall appoint a Variance Board of Appeals consisting of three (3) members, one of whom shall be designated as Chairperson. The Town Board may provide for compensation to be paid to experts, clerks, and a secretary and provide for such other expenses as may be necessary and proper, not exceeding the appropriation made by the Town Board for such purposes. No member of the Town Board should be eligible for membership on such Variance Board of Appeals.

The appointment of members to the Variance Board of Appeals shall be for terms so fixed that one member's term expires at the end of each calendar year for the next three (3) years, and thereafter each replacement member shall be appointed for a term of three years.

If a vacancy shall occur otherwise than by expiration of a term, the Town Board shall appoint the new members for the unexpired term.

The Town Board shall have the power to remove, after a public hearing, any member of the Variance Board of Appeals for cause.

All meetings of the Variance Board of Appeals shall be held at the call of the Chairperson and at such other times as the Board may determine.

(b) Variance: The Variance Board of Appeals shall have the power to grant a variance from the minimum lot size and setback regulations fixed by Section 4 of this law.

In making its determination, the Board shall take into consideration:

(1) 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 of such grant. In making such determination, the Board shall also consider whether an undesirable change will be produced in the character of the neighborhood or a detriment to the nearby properties will be created by the granting of the variance;

(2) If the benefits sought by the applicant can be achieved by some method feasible for the applicant to pursue other than a variance;

(3) Whether the requested variance is substantial;

(4) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions of the neighborhood; 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 the granting of the variance.

The Board, in granting a variance, shall grant the minimum variance that it shall deem necessary and adequate and, at the same time, preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

(c) Application: A property owner may initiate a request for a variance by filing an application with the Variance Board of Appeals using forms supplied by said Board, which application shall include all information reasonably considered by the Board as necessary to make its finding under this Law, and shall include but not be limited to:

(1) a legal description, with metes and bounds, of the subject property;

(2) a map showing the subject property and all properties within five hundred feet (500') of the exterior boundaries of the subject property;

(3) plans and elevations necessary to show the proposed variance and other drawings and information necessary for the Board to have an understanding of the proposed variance and its relationship to the neighborhood, the community, and the surrounding properties.

(d) Conditions of Variance: The Variance Board of Appeals shall, in granting the variance, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed use of the property. Such conditions shall be consistent with the purposes of minimizing any adverse impact such variance may have on the neighborhood or community.

(e) Variance Board of Appeals Procedure:

(1) Open Meetings: Meetings of the Variance Board of Appeals shall be open to the public to the extent provided by Article 7 of the Public Officer's Law. The Board shall keep minutes of its proceedings showing the vote of each member upon every question, or, if absent or if failing to vote, indicating such fact and shall also keep records of its examination and other official actions.

(2) Jurisdiction and Voting: Unless otherwise provided, the jurisdiction of the Variance Board of Appeals shall be limited to hearing and deciding applications for variances from the minimum lot size and setback requirements fixed by Section 4 hereof. The concurring vote of a majority of the members of the Variance Board of Appeals shall be necessary and sufficient to issuing a variance to the minimum lot size and setback regulations fixed in Section 4 hereof.

(3) Public Hearing: The Variance Board of Appeals, upon application to it, shall fix a reasonable time for a public hearing on said application and give public notice of such hearing by publication in a paper of general circulation in the Town at least ten (10) days prior thereto. The applicant shall give notice, by certified mail, return receipt requested, to each property owner within 500' of any boundary of the subject property at the address to which tax bills are sent, and shall file proof of such mailing with the Board at the hearing. Upon such hearing any party may appear in person or by agent or attorney.

(4) Decision: The Variance Board of Appeals shall decide the application within sixty (60) days after the aforesaid public hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board. The decision shall be filed in the Office of the Town Clerk within five (5) business days after the decision is rendered and a copy thereof mailed to the applicant at the address on the application. The decision shall be a public record.

(f) Article 78 Proceeding: Any person or persons jointly or severally aggrieved by any decision of the Variance Board of Appeals may apply to the Supreme Court of the State of New York for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within thirty (30) days of the filing of the decision of the Board in the Office of the Town Clerk.

SECTION 7. VIOLATIONS: Any person who shall violate any provisions of this local law shall be guilty of an offense and upon conviction shall be punishable by a fine not to exceed \$150.00 or imprisonment of not more than 30 days or both. Each day that such violation is permitted to exist shall constitute a separate and distinct offense.

SECTION 8. EFFECTIVE DATE: This local law shall take effect immediately upon its passage and filing with the Secretary of State.