

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 Briarcliff Manor _____

Local Law No. 8 of the year 2024

A local law A LOCAL LAW AMENDING CHAPTER 61 ZONING BOARD OF APPEALS
(Insert Title)
AND CHAPTER 220-17 BOARD OF APPEALS OF THE CODE OF THE VILLAGE OF
BRIARCLIFF MANOR

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

County City Town Village
(Select one:)

of Briarcliff Manor _____ as follows:

SEE ATTACHED

(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. 8 of 2024 of the (County)(City)(Town)(Village) of BRIARCLIFF MANOR was duly passed by the BOARD OF TRUSTEES on JUNE 4 2024, 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.)

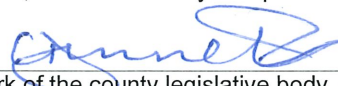
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified 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

Date: 6-17-24

(Seal)

A LOCAL LAW AMENDING CHAPTER
61 ZONING BOARD OF APPEALS AND
CHAPTER 220-17 BOARD OF APPEALS
OF THE CODE OF THE VILLAGE OF
BRIARCLIFF MANOR

Be it enacted by the Board of Trustees of the Village of Briarcliff Manor as follows:

Section 1. Chapter 61 Zoning Board of Appeals of the Code of the Village of Briarcliff Manor, is hereby repealed in its entirety and replaced with the following:

Chapter 61. Zoning Board of Appeals

A. Definitions

As used in this subsection, the following terms shall have the meanings indicated:

ALTERNATE MEMBER

An individual appointed by the Village Board of Trustees to serve on the Village of Briarcliff Manor Board of Appeals when a regular member has recused himself or herself or is otherwise precluded from consideration of a matter before such Board or is absent or otherwise unable to participate at a meeting of the Board.

ZONING BOARD OF APPEALS (“ZBA”)

The Zoning Board of Appeals of the Village of Briarcliff Manor.

MEMBER

An individual appointed by the Village Board of Trustees to serve on the Village of Briarcliff Manor Board of Appeals.

B.

The Board of Trustees shall appoint a Zoning Board of Appeals consisting of five members and shall designate its Chairman. The members of such ZBA shall continue in office for terms of five years and until their successors have been appointed as herein provided and have qualified. Of the members of such Board first appointed after March 1, 1966, one shall hold office for the term of one year, one for the term of two years, one for the term of three years, one for the term of four years, one for the term of five years, from and after his appointment. Their successors shall be appointed for the term of five years from and after the expiration of the terms of their predecessors in office.

C. Attendance

Attendance of members at meetings. If a member must miss a meeting, she or he shall provide written notification to the Chair in advance of such missed meeting or as soon thereafter as is reasonably practicable, and such member shall be recorded as "excused" for the meeting missed. In the event that a member is absent for three meetings in any one official Village year or without excuse for two consecutive meetings, the Chair shall notify the Board of Trustees in writing, and the member may be deemed by the Board of Trustees to have resigned from the Board, and a replacement may be appointed for the balance of the term outstanding.

D. Alternate member.

(a) Purpose. This alternate Board of Appeals member subsection shall apply to appointment, terms, functions and powers of alternate members appointed to serve on the Board of Appeals of the Village of Briarcliff Manor.

(b) Declaration of policy. As a result of recusals by Board members or other reasons which may keep a member of the Board of Appeals from participating in the consideration of a specific matter before such Board, official business may not always be able to be conducted and may delay or impede adherence to required timelines. The use of alternate members in such instances is hereby authorized pursuant to the provisions of this subsection.

(c) Authorization. This subsection provides a process for appointing one alternate member to the Board of Appeals to serve when a member has recused himself or herself or is otherwise precluded from consideration of a matter or is absent or otherwise unable to participate at a meeting of the Board.

[1]

The alternate member shall be appointed by the Board of Trustees for a term of one year.

[2]

An alternate member shall have all of the rights, privileges, and responsibilities of a member of the Board of Appeals. When an alternate member is voting or counting toward the calculation or composition of a quorum, that circumstance shall be noted in the minutes of the Board meeting.

[3]

All provisions of state law relating to Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provision of a local law relating to Board of Appeals members, shall also apply to alternate members.

[4]

An alternate member shall attend meetings of the Board of Appeals, including work sessions, regular meetings, and executive sessions, shall sit with and participate in all deliberations of the Board on all matters, and shall substitute for a member who has recused himself or herself or is otherwise precluded from consideration of a matter or is absent or otherwise unable to participate at a meeting of the Board, but an alternate member shall not vote or count towards the calculation or composition of a quorum unless he or she is substituting for a member and has attended all the meetings held on any matter, or otherwise makes an informed decision based on sufficient knowledge of the matter at hand.

E.

If a vacancy shall occur otherwise than by expiration of term, it shall be filled by the Board of Trustees by appointment for the unexpired term.

F.

The Board of Trustees shall have the power to remove any member of the Board for cause and after public hearing.

G.

All meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as such Board may determine. Such Chairman, or in his absence, the Acting Chairman, may administer oaths and compel the attendance of witnesses.

H.

All meetings of such Board shall be open to the public. Such Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating such fact, and shall also keep records of its examinations and other official actions. Every rule, regulation, every amendment or repeal thereof, and every order, requirement, decision or determination of the Board shall immediately be filed in the office of the Board and shall be a public record.

Section 2. Chapter 220-17 Zoning Board of Appeals of the Code of the Village of Briarcliff Manor, is hereby repealed in its entirety and replaced with the following:

§ 220-17. Appeals.

The Board of Appeals, as heretofore established pursuant to the Village Law, is hereby continued with all powers and duties prescribed by Village Law, by Chapter 61, and by this chapter, which powers and duties are summarized and more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any of the power of the Board of Appeals that is conferred by New York State Village Law §§ 7-712, 7-712-a and 7-712-b. Said Board shall have the power to adopt, from time to time, such rules and procedures not inconsistent with law, as it may determine to be necessary to carry out the provisions of these regulations and to exercise the authority vested in it by the Village Law.

A.

Interpretation. On appeal from an order, requirement, decision or determination made by an administrative official, the Board of Appeals shall decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary line, if uncertainty remains after reference to the rules specified in § 220-3C, Boundaries.

B.

Variances. Where there are practical difficulties or unnecessary hardships in the way of carrying out the strict letter of the chapter, the Board of Appeals shall have the power in passing upon appeals to vary or modify the application of any of the regulations or provisions of this chapter relating to the use, construction or alteration of buildings or structures or the use of land, upon application by an appellant, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done.

(1)

Use variances. Where because of unnecessary hardship relating to the land an applicant desires to utilize land for a use not allowed in the district in which the land is located, the Board may grant a variance in the application of the provisions of this chapter in the specific case, provided that as a condition to the grant of any such variance the applicant shall demonstrate to the Board, and the Board shall make each and every one of the following findings, that for each and every permitted use under the zoning regulations for the particular district where the property is located:

(a)

The applicant cannot realize a reasonable return, provided that lack of return is substantial as demonstrated by competent financial evidence;

(b)

The alleged hardship relating to the property in question is unique, and does not apply to a substantial portion of the district or neighborhood;

(c)

The requested use variance, if granted, will not alter the essential character of the neighborhood;

(d)

The alleged unnecessary hardship has not been self-created; and

(e)

That within the intent and purposes of this chapter, the variance, if granted, is the minimum variance necessary to afford relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. To this end, the Board may permit a lesser variance than that applied for.

(2)

Area variances. In making its determination, the Board of Appeals shall consider 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 the following factors:

(a)

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.

(b)

Whether the benefit sought by the applicant can be achieved by some method feasible for the applicant to pursue other than an area variance.

(c)

Whether the requested area variance is substantial in relation to the requirement.

(d)

Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

(e)

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 area variance.

(f)

The Board, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate to afford relief and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community. To this end, the Board may permit a lesser variance than that applied for.

(3)

Variances when subdivision, site plan or special permit applications are involved. Where a proposed site plan contains one or more features which do not comply with the zoning regulations, or where a proposed special permit use contains one or more features which do not comply with the zoning regulations, or where a proposed subdivision plat contains one or more lots which do not comply with the zoning regulations, application may be made to the Board of Appeals for an area variance or variances pursuant to Subsection **B(2)**, without the necessity of a

decision or determination of an administrative official charged with the enforcement of this chapter or a referral by an approving agency acting pursuant to this chapter.

C.

Conditions and safeguards. The Board of Appeals, in the granting of both use variances and area variances, may prescribe such reasonable conditions or restrictions applying to the grant of a variance as it may deem necessary in each specific case, in order to minimize the adverse effects of such variance upon the character and property values of the neighborhood or community and to protect the public health, safety and welfare. Such conditions or restrictions shall be directly related to the proposed use of the property. Such conditions or restrictions shall be incorporated in the building permit and certificate of occupancy. Failure to comply with such conditions or restrictions shall constitute a violation of this chapter and may constitute the basis for denial or revocation of a building permit, certificate of conformance or certificate of occupancy and for all other applicable remedies.

D.

Appeal or application. An appeal shall be taken within 60 days of the order or decision appealed from, by filing with the official or agency from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the ground thereof. The official or agency from whom the appeal is taken shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from is taken. A referral to the Board for a variance, or a request for an interpretation, may be made at any time. All such appeals and applications to the Board shall be made by the owner or agent duly authorized, in writing, and shall be on forms prescribed by the Board. Each appeal or application shall fully set forth the circumstances of the case, shall refer to the specific provision of the chapter involved, and shall exactly set forth, as the case may be, the interpretation that is claimed, the details of the adjustment that is applied for, and the grounds on which it is claimed that the same should be granted.

E.

Review by other agencies.

(1)

Upon receipt of a completed application for review, the Secretary of the Board of Appeals shall promptly transmit to Board of Appeals a copy of the application and all papers related thereto with a notice of hearing, a copy of which shall be sent to the Planning Board. The Board of Appeals may also forward copies for review and comments to the Building Inspector, Village Engineer and other officials, boards, and agencies of the Village as it deems appropriate.

(2)

The Board of Appeals shall refer to the Westchester County Planning Board for its recommendation all matters within the provisions of Article 12B, §§ 239-I and 239-m, of the General Municipal Law at least 10 days prior to the public hearing.

(3)

Any interested party may, with respect to any such application, submit comments for consideration prior to or at the public hearing.

F.

Public hearing. The Board of Appeals shall conduct a public hearing on every application or request made pursuant to this chapter. Such public hearing shall be held within a reasonable time, generally at the next scheduled meeting of the Board of Appeals, but no earlier than 15 days from the date the complete application is received by the Secretary of the Board. The Board of Appeals shall meet monthly, quorum permitting. No requirement herein shall mandate that the Board of Appeals meet if no timely, completed application or request is pending before the Board for its consideration.

G.

Notice of hearing. Notice of any hearing before the Board of Appeals shall be published by the Village Clerk in the official paper at least five days prior to the date of said hearing. Notice of the hearing shall also be mailed by the Board to any parties having jurisdiction over such appeal, at least five days before such hearing, and shall give any other notice required by law. The applicant shall mail, by certified mail, at least 10 days before such hearing, notice of the hearing to all abutting property owners and to all owners of the property situated directly across a street from the property affected by such appeal, and any other property owners as the Village Clerk or Chairman of the Board of Appeals may determine. Proof of such mailing, in a form acceptable to the Village Clerk, shall be submitted to the Board by the applicant prior to the hearing. The applicant shall be responsible for the cost of publication and mailing of such notice. Such notice shall include a plain-language description of the proposed construction and the variance requested. Further, the applicant shall post a sign, which should be located so that it is visible from the nearest public street, on the property referenced in such application at least 10 days but not more than 20 days prior to the Board of Appeals' scheduled hearing on the matter, and for a period of time determined by the Board of Appeals. Such signs shall be issued by the Building Department upon payment by the applicant of an amount to be set forth by resolution by the Village Board of Trustees.

H.

Decision. The Board of Appeals shall decide upon the appeal for relief, interpretation or determination within 62 days after the close of said hearing. The time within which the Board must render its decision may be extended by mutual consent of the applicant and the Board. Every decision of the Board of Appeals shall be by resolution, shall be recorded and shall fully set forth the facts of the case, the findings and the conclusions on which the decision was based. The decision of the Board shall be filed in the office of the Village Clerk within five business days after the day such decision is rendered, and a copy of such resolution shall be mailed to the applicant.

I.

Rehearing. A motion for the Zoning Board of Appeals to hold a rehearing to review any order, decision or determination of the Board not previously reviewed may be

made by any member of the Board. A unanimous vote of all members of the Board then present is required for such hearing to occur. Such rehearing is subject to the same notice provisions as an original hearing. Upon such rehearing, the Board may reverse, modify or annul its original order, decision or determination upon the unanimous vote of all members then present, provided the Board finds that the rights vested by persons acting in good faith in reliance upon the reviewed order, decision or determination will not be prejudiced thereby.

J.

Fees. Any person or corporation, other than the Village of Briarcliff Manor, making any application to the Board of Appeals under the provisions of this chapter shall pay to the Building Department the sum as set forth in the Schedule of Fees to cover the cost of advertising the notice of hearing, upon each application filed.

Section 3. Severability. The invalidity of any word, section, clause, paragraph, sentence, part or provision of this local law shall not affect the validity of any part of this local law which can be given effect without such valid part or parts.

Section 4. Effective Date. This local law shall take effect immediately upon filing in the Office of the Secretary of State of New York in accordance with the provisions of the Municipal Home Rule Law.