

LOCAL LAW FILING

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001

(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 of Phelps
Village

Local Law No. 1 of the year 2024

A local law **Adopting Regulations Affecting Members of the Town Planning Board and Zoning Board of Appeals**

(Insert Title)

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

County
City
Town of Phelps
Village

as follows:

Section 1. Authorization. This Local Law is enacted pursuant to New York State Town Law Sections 267 and 271 to establish requirements for planning board and zoning board of appeals members.

Section 2. Chapter 31 (Planning Board) of the Code of the Town of Phelps is hereby amended with the insertion of a new Article III to read as follows:

Article III Requirements for Members of the Planning Board and Removal of Members

§ 31-10 Requirements for Members of the Planning Board

A. Training.

1. Training requirements.

Members of the planning board shall be required to complete a minimum of ten (10) hours of training during each calendar year, or portion thereof, designed to enable such members to more effectively carry out their duties. Training received annually in excess of ten (10) hours may be carried over into succeeding years to meet the training requirements. Training sessions shall be

approved by the Town Board by resolution upon recommendation of the Planning Board and may include training provided by municipal, county or regional planning departments, planning federations, state agencies, statewide municipal associations, colleges or other sponsoring entities. The training may include electronic media, video, distance learning, or traditional classroom training.

2. Reappointment.

No member of the planning board shall be eligible for reappointment to the planning board without having completed the cumulative annual training required by this Local Law.

3. Time and Mileage Reimbursement.

Members attending training sessions shall be reimbursed for mileage to and from the training at the federal rate and for the time of attendance pursuant to the policies as adopted from time to time by the Town Board.

B. Attendance.

Each planning board member is required to attend a minimum of 75% of all planning board meetings scheduled in any calendar year. No planning board member shall miss three (3) consecutive regularly scheduled meetings. If a member anticipates his or her absence from a meeting, the member should make every effort to contact the chairperson so an alternate may be notified.

§ 31-11 Removal of Planning Board Member.

A. Power to Remove.

The Town Board shall have the power to remove, after public hearing, any member of the planning board for cause.

B. Basis for Removal.

Any planning board member may be removed for non-compliance with the minimum requirements relating to training or meeting attendance as set forth in this Article or with any other requirements applicable to such member in the Town's Employee Handbook.

C. Procedure for Removal.

A Planning Board member or a Town Board member may submit a written statement to the Town Board requesting a planning board member be removed for failure to meet the requirements contained in this Article or in the Employee Handbook. The Town Board shall consider same and may vote to file a complaint against the member. Said written complaint must also be filed with the Town Clerk, Secretary to the Planning Board and the party complained of (the respondent), and include a recitation of alleged

facts supporting the complaint. The complaint shall provide at least fifteen days' notice for a public hearing before the Town Board. The respondent shall have ten days to admit or deny the complaint.

D. Public Hearing.

The Town Board has the burden of presenting proof at the public hearing by a preponderance of the evidence that the respondent has failed to meet the attendance requirements. The respondent shall have an opportunity to be heard to refute the allegations or offer an excuse for such absence. A majority vote of the Town Board is required to remove the respondent upon a finding of failure to meet the requirements of this Article or of the Employee Handbook, as amended.

§ 31-12 Application to Alternate Planning Board Members.

The provisions of this Article relating to planning board members shall also apply to alternate members.

Section 3. Article XII (Board of Appeals) of the Town of Phelps Zoning Ordinance is hereby amended with the insertion of a new § 145-64.2 to read as follows:

§ 145-64.2 Requirements for Members of the Zoning Board of Appeals and Removal of Members

A. Requirements for Members of the Zoning Board of Appeals

1. Training.

a. Training requirements.

Members of the zoning board of appeals shall be required to complete a minimum of ten (10) hours of training during each calendar year, or portion thereof, designed to enable such members to more effectively carry out their duties. Training received annually in excess of ten (10) hours may be carried over into succeeding years to meet the training requirements. Training sessions shall be approved by the Town Board by resolution upon recommendation of the zoning board of appeals and may include training provided by municipal, county or regional planning departments, planning federations, state agencies, statewide municipal associations, colleges or other sponsoring entities. The training may include electronic media, video, distance learning, or traditional classroom training.

b. Reappointment.

No member of the zoning board of appeals shall be eligible for reappointment to the zoning board of appeals without having completed the cumulative annual training required by this Local Law.

c. Time and Mileage Reimbursement.

Members attending training sessions shall be reimbursed for mileage to and from the training at the federal rate and for the time of attendance pursuant to the policies as adopted from time to time by the Town Board.

2. Attendance.

Each zoning board of appeals member is required to attend a minimum of 75% of all zoning board of appeals meetings scheduled in any calendar year. No zoning board of appeals member shall miss three (3) consecutive regularly scheduled meetings. If a member anticipates his or her absence from a meeting, the member should make every effort to contact the chairperson so an alternate may be notified.

B. Removal of Zoning Board of Appeals Member.

1. Power to Remove.

The Town Board shall have the power to remove, after public hearing, any member of the zoning board of appeals for cause.

2. Basis for Removal.

Any zoning board of appeals member may be removed for non-compliance with the minimum requirements relating to training or meeting attendance as set forth in this Article or with any other requirements applicable to such member in the Town's Employee Handbook.

3. Procedure for Removal.

A zoning board of appeals member or a Town Board member may submit a written statement to the Town Board requesting a zoning board of appeals member be removed for failure to meet the requirements contained in this Article or in the Employee Handbook. The Town Board shall consider same and may vote to file a complaint against the member. Said written complaint must also be filed with the Town Clerk, Secretary to the zoning board of appeals and the party complained of (the respondent), and include a recitation of alleged facts supporting the complaint. The complaint shall provide at least fifteen days' notice for a public hearing before the Town Board. The respondent shall have ten days to admit or deny the complaint.

4. Public Hearing.

The Town Board has the burden of presenting proof at the public hearing by a preponderance of the evidence that the respondent has failed to meet the attendance requirements. The respondent shall have an opportunity to be heard to refute the allegations or offer an excuse for such absence. A majority vote of the Town Board is

required to remove the respondent upon a finding of failure to meet the requirements of this Article or of the Employee Handbook, as amended.

C. Application to Alternate Zoning Board of Appeals Members.

The provisions of this Article relating to zoning board of appeals members shall also apply to alternate members.

Section 2. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been ordered.

Section 3. This local law shall take effect immediately upon filing with the 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. 1 of 2024 of the **Town of Phelps** was duly passed by the Phelps Town Board on January 17,, 2024, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer¹.)

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.

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__. 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.

¹ 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 2005 of the City of _____ 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 Town

(Seal)

Date: January 13, 2024

**RESOLUTION AUTHORIZING ADOPTION OF A LOCAL LAW
ADOPTING REGULATIONS AFFECTING MEMBERS OF THE TOWN PLANNING
BOARD AND ZONING BOARD OF APPEALS**

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Phelps for a public hearing to be held by said Town Board on January 16, 2024, at 7:00 p.m. at the Phelps Town Meeting Hall, 1331 NYS Route 88, Phelps, New York, to hear all interested parties on a proposed Local Law Adopting Regulations Affecting Members of the Town Planning Board and Zoning Board of Appeals; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Town of Phelps, on January 2, 2023 and all other notices required by law to be given were properly served, posted or given; and

WHEREAS, said public hearing was duly held on January 16, 2024, at 7:00 p.m. at the Phelps Town Meeting Hall, 1331 NYS Route 88, Phelps, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

WHEREAS, the Town Board of the Town of Phelps, after due deliberation, finds it in the best interest of the Town of Phelps to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Phelps hereby adopts said Local Law No. 1 of 2024, entitled, "A Local Law Adopting Regulations Affecting Members of the Town Planning Board and Zoning Board of Appeals", a copy of which is attached hereto and made a part hereof, and be it further


RESOLVED, that the Town Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Phelps and to give due notice of the adoption of said local law to the Secretary of State of New York.

I, Amy Sitterley, Town Clerk of the Town of Phelps do hereby certify that the aforementioned resolution was adopted by the Town Board of the Town of Phelps on January 16, 2024, by the following vote:

RESOLUTION OFFERED BY COUNCILMAN RIDLEY, SECONDED BY COUNCILMAN DUCHESNEAU.

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
Ron Allen	—	—	<u>X</u>
Brent Ford	<u>X</u>	—	—
Kent Ridley	<u>X</u>	—	—
John Duchesneau	<u>X</u>	—	—
Bill Wellman	<u>X</u>	—	—

Dated: January 17, 2024


Amy Sitterley, Town Clerk

SEAL

STATE OF NEW YORK
DEPARTMENT OF STATE
ONE COMMERCE PLAZA
99 WASHINGTON AVENUE
ALBANY, NY 12231-0001
[HTTPS://DOS.NY.GOV](https://dos.ny.gov)

KATHY HOCHUL
GOVERNOR
ROBERT J. RODRIGUEZ
SECRETARY OF STATE

March 22, 2024

Graff Law Office PLLC
26 East Main Street
PO Box 604
Clifton Springs, NY 14432-0604

RE: **Town of Phelps, Local Law 1 & 2 2024, filed on 3/19/2024**

Dear Sir/Madam:

The above referenced material was filed by this office as indicated. Additional local law filing forms can be obtained from our website, www.dos.ny.gov.

Sincerely,
State Records and Law Bureau
(518) 473-2492

