

Local Law 1 of 2008

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 State Street, Albany NY 12231

Village of Muttontown

Local Law 1 of 2008

A local law amending Chapter 190 (“Zoning”), sections 190-11, 190-31 and 190-60 of the Code of Muttontown to reconcile inconsistencies in the Code of Muttontown by designating the Board of Trustees as the sole agency responsible for the issuance and modification of special use permits

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

Chapter 190: ZONING

[HISTORY: Adopted by the Board of Trustees of the Village of Muttontown 3-6-1932; amended in its entirety 11-16-1959. Subsequent amendments noted where applicable.]

ARTICLE IV Use Regulations

§ 190-11. Special use permits.

- A. Such special use permits as are subject to the provisions of this article may be granted only when the petitioner files with the Board of Trustees the written consents, duly acknowledged, of at least 75% of the owners of all land, other than public streets, within the Village which lies outside of and within 1,500 feet of each boundary line of the lot or lots to be used for such buildings. The Board of Trustees may, by unanimous vote of all members of the Board then in office, grant permission for any such use even though consents are not so filed on behalf of at least 75% of the owners of the above-mentioned area. **[Amended October 10, 2006 by L.L. No. 2-2006]**
- B. Such special use permits as are subject to the provisions of this article may only be granted in compliance with the following conditions: **[Amended 12-14-1981 by L.L. No. 3-1981]**
- (1) The Board of Trustees, in considering any application for a special use permit for the uses specified in § 190-10E and F shall require the applicant to pay all reasonable expenses of the Village in connection therewith, including, without limitation, stenographic costs, advertising expense, engineering fees and charges of expert witnesses and advisors, and may require the applicant to post a reasonable deposit with the Village in advance for the same.
 - (2) The Board of Trustees, in granting any special use permit for the uses specified in § 190-10E and F, may require such conditions and safeguards as are deemed appropriate, reasonable and necessary and require the payment of all building permit fees and reasonable engineering expenses in reviewing, inspecting and reporting on the suitability, execution and completion of all engineering aspects of the building and site plans, with special reference to drainage, road construction, parking area construction, screen planting, fencing and fire protection.

- (3) The Board of Trustees, in granting any special use permit for the uses specified in § 190-10E and F, may require, as a condition to permitting the issuance of any building permit or otherwise as a condition of its authorization pursuant to § 190-38 hereof, the posting of a bond, cash or other surety in such form as shall be approved by the Village Attorney and in an amount sufficient to insure compliance with this chapter and other laws, authorizations or regulations of the Village, including one or more of the following purposes:
 - (a) To ensure the conformity of all construction and improvements on the property with any plans submitted to or approved by the Board of Trustees or any Village officials;
 - (b) To recompense the Village for the services of any professional help, including that of the Village Engineers, retained or used in considering the proposed use of any plans or proposals in respect thereto and in reviewing, inspecting and reporting on the execution and completion of all construction and engineering aspects of all buildings and improvements on the property or premises; and
 - (c) To restore the lot to a safe and slightly condition should any construction or improvement thereon either fail to meet the requirements of this chapter or the conditions of the authorization by the Board of Trustees or be terminated or discontinued before completion.
- C. Such special use permits for tax-exempt institutions as are subject to the provisions of this article may be granted only with respect to the quantity of acreage which is required exclusively for carrying out thereupon the purposes of such special use. In determining the acreage requirement the following factors shall be taken into consideration:
- (1) The size and location of such building or buildings thereon.
 - (2) The proposed number of occupants of such building or buildings thereon.
 - (3) The use for which such building or buildings thereon are intended.

ARTICLE VII General Provisions

§ 190-31. Nonconforming buildings and uses. [Amended 6-9-1981 by L.L. No. 1-1981; 6-14-1982 by L.L. No. 1-1982; 4-8-1985 by L.L. No. 1-1985]

- A. **[Editor's Note: Amended at time of adoption of code (see Ch. 1, General Provisions, Art. I)].** Any building or use legally existing on the effective date of this chapter or any amendment of this chapter and permitted by the Building Zone Ordinance in effect immediately prior to that date, although not conforming to the other provisions of this chapter, may be continued subject to compliance with the provisions of §§ 190-8 and 190-32 of this chapter and subject to the following conditions:
- (1) No such building which is nonconforming with respect to height, area, lot, location or setback from any lot line shall be enlarged or altered in such manner as to increase any nonconformity.
 - (2) No such building which is nonconforming with respect to use shall be enlarged nor shall it be altered structurally except as may be allowed by law or ordinance.
 - (3) No such nonconforming use shall be enlarged or extended nor shall it be changed to another nonconforming use.
 - (4) No such nonconforming building or use, if changed to a building or use which conforms to the provisions of this chapter, shall thereafter be changed to a nonconforming use or building.

(5) No such nonconforming use, if discontinued for six months or longer, shall be resumed.

(6) No such nonconforming building, if 50% or more of the assessed value thereof is destroyed due to any cause, shall be restored in nonconforming form or location or for the continuance of a nonconforming use, except that such a building, if destroyed accidentally due to fire, explosion or other cause, may, if so permitted by the Zoning Board of Appeals, be restored in substantially the same form and location but without extension of the nonconforming use.

B. Any legal preexisting incorporated club, nursery for the cultivation and sale of plants or stable for the commercial boarding of horses may be continued and operated in accordance with the special use permit issued for such use.

C. Notwithstanding the provisions of Subsection A(3) above, such uses may be expanded or modified, provided that:

(1) No additional lands shall be devoted to such use;

(2) Such expansion or modification does not exceed the provisions of this chapter applicable to such uses which existed at the time the particular special use permit was issued, except that the Board of Trustees may vary the requirements for off-street parking for special permits previously issued for a nursery for the cultivation and sale for plants; and

(3) Such expansion or modification is approved by the Board of Trustees after a public hearing.

D. If a legal preexisting, nonconforming incorporated club, nursery for the cultivation and sale of plants or stable for the commercial boarding of horses ceases operation for a period of more than six months and the property which was used for such purpose is granted final approval for residential subdivision by the Planning Board, all buildings and structures nonconforming in use, dimensional requirements or number with the current provisions of this chapter at the time of final Planning Board approval must be removed or relocated in strict compliance with the provision of the Building Zone Ordinance at the time of the Planning Board approval.

ARTICLE XI Wireless Telecommunication Services Facilities [Added 1-20-2000 by L.L. No. 1-2000]

§ 190-60. Setbacks.

It shall be a priority of the Village to maximize the separation between wireless telecommunication services facilities and residences and residential properties. Unless otherwise modified by the Board of Trustees in an effort to accommodate collocation or other purposes of this article, a freestanding wireless telecommunication services facility shall be located from the property line and all dwelling units not less than:

A. The height of the facility plus two times the applicable setback for principal structures for the district in which the property is located; and

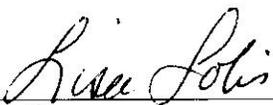
B. Such additional setbacks as shall be determined by the Board of Trustees in order that the proposed facility will not create damage or injury from a structural failure of a wireless telecommunication services facility.

This local law is effective upon filing with the Secretary of State.

Final adoption by the Board of Trustees of the Incorporated Village of Muttontown.

I hereby certify that the local law annexed hereto, designated as Local Law 1 of 2008 of the Village of Muttontown was duly passed by the Board of Trustees on October 14, 2008, in accordance with the applicable provisions of law.

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 thereof and of the whole of such original local law, and was finally adopted by the Board of Trustees of the Incorporated Village of Muttontown.



Lisa Lolis
Village Clerk/Treasurer

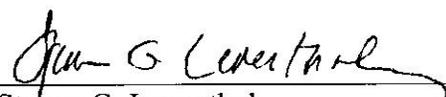
Village of Muttontown
Date: October 14, 2008

Seal

Certification by the Village Attorney

STATE OF NEW YORK
COUNTY OF NASSAU

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.



Steven G. Leventhal
Village Attorney
Village of Muttontown

Date: October 14, 2008