



Building Standards and Codes

New York State
Department of State
Division of Building Standards and Codes
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Notice and Petition Relating to More Restrictive Construction Standards (Uniform Code – Executive Law § 379)

INSTRUCTIONS TO PETITIONER:

Complete this Notice and Petition in its entirety and submit as indicated in PART 6. All "Exhibits" required in PART 4 must be included and correctly labeled.

PART 1: MUNICIPALITY INFORMATION:

This Notice and Petition relates to a Local Law or Ordinance enacted or adopted by the following local government or county (the "Municipality"):

City Town Village of _____ or County of Nassau.

Address: _____

PART 2: LOCAL LAW OR ORDINANCE INFORMATION:

This Notice and Petition relates the Municipality's: Local Law Ordinance No. ____ of 20____.

Date of enactment or adoption of the Local Law or Ordinance by Legislative Body: _____.

Local Law only: Date of filing of Local Law pursuant to Municipal Home Rule Law: _____.¹

PART 3: PETITIONER INFORMATION:

This Notice and Petition is filed by the Petitioner named below (the "Petitioner").

Petitioner is the Chief Executive Officer of the Municipality.

The Municipality has no Chief Executive Officer. Petitioner is the Chairperson of the Legislative Body.²

Name of Petitioner: _____

Title of Petitioner: Mayor Supervisor Chairperson of Legislative Body

Other (specify) _____

Telephone Number: _____ Fax Number: _____ Email Address: _____
(____) ____ - ____ (____) ____ - ____ _____

¹ Executive Law § 379(1) provides that the Notice and Petition relating to a local law or ordinance that imposes more restrictive standards for construction **must** be submitted within thirty days of such enactment or adoption by the Legislative Body. Please note that the thirty-day time period begins on the date of enactment or adoption **by the Legislative Body**, and **not** on (1) the date the local law or ordinance is approved by the Chief Executive Officer, or (2) the effective date of the local law or ordinance, or (3) the date on which the local law is filed with the Department of State's Division of Corporations, State Records, and Uniform Code pursuant to the Municipal Home Rule Law. **Please note also that the Code Council may deny a request to adopt (approve) a more restrictive construction standard if the Notice and Petition is untimely.** Please consult with the Municipality's attorney before submitting a Notice and Petition more than thirty (30) days after enactment or adoption of the local law or ordinance by the Legislative Body.

² Executive Law § 379(1) provides that "(w)ithin thirty days of such enactment or adoption, the chief executive officer, or if there be none, the chairman of the legislative body of such local government, shall so notify the council, and shall petition the council for a determination of whether such local laws or ordinances are more stringent than the standards for construction applicable generally to such local government in the uniform code." **The Code Council may deny a request to adopt (approve) a more restrictive construction standard if the Notice and Petition is not submitted by the chief executive officer of the Municipality (or, if there is no chief executive officer, by Chair of the Legislative Body of the Municipality).**

PART 4: NOTICE AND PETITION:

TO: The State Fire Prevention and Building Code Council (the “Code Council”)
c/o New York State Department of State, Division of Building Standards and Codes

Notice of Enactment or Adoption. Please take notice that the Legislative Body of the Municipality enacted or adopted the Local Law or Ordinance described above (the “Local Law or Ordinance”) on the “date of enactment or adoption” indicated above.

A true and complete copy of the Local Law or Ordinance is included herewith and labeled **Exhibit A.**

Petition for Determination. The undersigned Petitioner hereby petitions the Code Council for a determination that the standards for construction imposed by the Local Law or Ordinance are more stringent than the standards for construction applicable generally to the Municipality in the New York State Uniform Fire Prevention and Building Code (the “Uniform Code”).

A detailed description of (1) the standards for construction imposed by the Local Law or Ordinance; (2) the corresponding standards imposed by the Uniform Code; and (3) the reasons why the Municipality believes the standards for construction imposed by the Local Law or Ordinance are more restrictive than the standards imposed by the Uniform Code is included herewith and labeled **Exhibit B.**

Special Conditions. The undersigned Petitioner hereby requests that the Code Council find that the higher or more restrictive standards for construction imposed by the Local Law or Ordinance are reasonably necessary because of special conditions prevailing within the Municipality.

A detailed description of (1) the special conditions prevailing within the Municipality including documentation verifying its existence and (2) the reasons why the Petitioner and the Municipality believe that such special conditions make the higher or more restrictive standards imposed by the Local Law or Ordinance reasonably necessary is included herewith and labeled **Exhibit C.**³

Conformance with Accepted Practices. The undersigned Petitioner hereby requests that the Code Council find that the standards for construction imposed by the Local Law or Ordinance conform with accepted engineering and fire prevention practices.

A detailed description of the reasons why the Petitioner and the Municipality believe that such standards for construction conform with accepted engineering and fire prevention practices is included herewith and labeled **Exhibit D.**⁴

Conformance with Purposes of Article 18. The undersigned Petitioner hereby requests that the Code Council find that the standards for construction imposed by the Local Law or Ordinance conform with the purposes of Article 18 of the Executive Law.

A detailed description of the reasons why the Petitioner and the Municipality believe that such standards for construction conform with the purposes of Article 18 is included herewith and labeled **Exhibit E.**⁵

³ The Code Council cannot adopt (approve) higher or more restrictive standards for construction enacted or adopted by a municipality unless the Code Council finds that such higher or more restrictive standards are reasonably necessary because of special conditions prevailing within the municipality. See Executive Law § 379(2).

⁴ The Code Council cannot adopt (approve) higher or more restrictive standards enacted or adopted by a municipality unless the Code Council finds that such higher or more restrictive standards conform with accepted engineering and fire prevention practices. See Executive Law § 379(2).

⁵ The Code Council cannot adopt (approve) higher or more restrictive standards enacted or adopted by a municipality unless the Code Council finds that such higher or more restrictive standards conform with the purposes of Article 18 of the Executive Law. See Executive Law § 379(2).

Variance Process.

- The Municipality has established a process whereby an aggrieved party may request a variance from the construction standards imposed by the Local Law or Ordinance. Such process is:
 - included in the following sections or provisions of the Local Law or Ordinance attached as Exhibit A:

 - included in a local law, ordinance, rule, or regulation other than the Local Law or Ordinance attached as Exhibit A, a true and complete copy of such other local law, ordinance, rule, or regulation being included herewith and labeled **Exhibit F.**⁶
- The Municipality has not established a process whereby an aggrieved party may request a variance from the construction standards imposed by the Local Law or Ordinance.

Additional Documentation.

List here all additional documentation submitted in support of this Petition. If more than four additional documents are submitted, attach additional pages to list those additional documents. The Department of State **strongly** recommends that the Municipality provide copies of the minutes and/or transcripts of the meetings or hearings in which the Local Law or Ordinance was discussed and enacted or adopted, particularly if those minutes or transcripts include information relating to the more restrictive nature of the standards imposed by the Local Law or Ordinance, special conditions that make the local standards reasonably necessary, and/or conformance with accepted practices and the purposes of Article 18. However, do not fail to submit this Notice and Petition within 30 days after enactment or adoption of the Local Law or Ordinance by the Legislative Body.

- Exhibit G** _____ (document name)
- Exhibit H** _____ (document name)
- Exhibit I** _____ (document name)
- Exhibit J** _____ (document name)

⁶ The Municipality's process (if any) for granting a variance from the standards for construction imposed by the Local Law or Ordinance must provide that no variance granted pursuant to such process can reduce any requirement below the level established by the Uniform Code. Neither the Municipality, nor any code enforcement official or other official or employee of the Municipality, nor any variance or appeals board established by the Municipality has the authority to waive, vary, modify or otherwise alter any provision or requirement of Uniform Code. Provisions or requirements of the Uniform Code may be varied or modified only pursuant to procedures established by the Secretary of State pursuant to Section 381(1)(f) of the Executive Law.

Request for Adoption / Approval.

The undersigned Petitioner hereby requests that the Code Council adopt (approve) the standards for construction imposed by the Local Law or Ordinance. The undersigned Petitioner and the Municipality acknowledge that (1) the Code Council has the power to adopt (approve) such standards in whole or in part; to limit the term or duration of such standards, to impose conditions in connection with the adoption thereof, and to terminate such standards at such times, and in such manner as the Code Council may deem necessary, desirable or proper; and (2) the Local Law or Ordinance cannot be enforced until an affirmative determination by the Code Council.

Dated: _____

Signature of Petitioner (Chief Executive Officer of the Municipality
or Chairperson of Legislative Body of the Municipality)

Print or Type Name and Title of Petitioner

PART 5: MUNICIPALITY CONTACT PERSON IF OTHER THAN PETITIONER:

Name: _____ Title: _____

Telephone Number: (____) ____ - _____ Email address: _____

PART 6: SUBMISSION INFORMATION:

Please submit this Notice and Petition, all required Exhibits, and any additional documentation the Petitioner and the Municipality wish to submit in support of this Notice and Petition to:

Gerard Hathaway, R.A.
Assistant Director for Code Development
NYS Department of State, Division of Building Standards and Codes
99 Washington Ave., Suite 1160
Albany, New York 12231

Or by email to: Dos.sm.codes.codedevelopment@dos.ny.gov.

When submitting petitions via email, type "MRLS:" in the subject line followed by the name of the Municipality and the Local Law # or Ordinance #. (*Example: MRLS: Town of Anywhere, Local Law # 5 of 2017*)

Electronic submissions are strongly encouraged.

If you have questions concerning submission requirements, please call the Code Development Unit at (518) 486-6990, e-mail at Gerard.Hathaway@dos.ny.gov or fax at (518) 486-4487.