



STATE OF NEW YORK  
**DEPARTMENT OF STATE**  
ONE COMMERCE PLAZA  
99 WASHINGTON AVENUE  
ALBANY, NY 12231-0001

ANDREW M. CUOMO  
GOVERNOR

CESAR A. PERALES  
SECRETARY OF STATE

March 12, 2013

Lisa L DeVona  
Village Clerk Treasurer  
240 N Main Street  
Minoa NY 13116

**RE: Village of Minoa, Local Law 3 2013, filed on February 28, 2013**

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](http://www.dos.ny.gov).

Sincerely,  
State Records and Law Bureau  
(518) 474-2755

**MAYOR**  
Richard J. Donovan

**TRUSTEES**  
John M. Abbott  
William F. Brazill  
John H. Champagne  
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**CLERK-TREASURER**  
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**LEGAL COUNSEL**  
Primo Law Offices, LLP



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240 N. Main Street  
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February 22, 2013

State Records and Law Bureau  
State of New York Department of State  
One Commerce Plaza  
99 Washington Avenue  
Albany, NY 12231

Dear Secretary of State:

Enclosed is one (1) original copy of **Local Law #3** for 2013 for the Village of Minoa.

If there are any questions on this law, please contact this office.

Sincerely,

A handwritten signature in cursive script that reads "Lisa DeVona".

Lisa L. DeVona  
Village Clerk/Treasurer

Enclosure

# Local Law Filing

41 STATE STREET, ALBANY, NY 12231

(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.

## Village of Minoa

Local Law No. Three (3) of the year 2013.

A local law amending Chapter 160 of the Village of Minoa Municipal Code relative to Zoning.

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

**Section One (1). §160-10(B) of the Village of Minoa Code entitled "Special Permit Uses" is hereby deleted in its entirety and replaced with the following:**

### B. Special Permit Uses.

- (1) The following uses may be permitted upon approval of the (Zoning) Board of Appeals, or, as to Owner – Proprietor Occupied Neighborhood Business ("OPONB") the Village Board of Trustees, subject to procedures set forth in this chapter:
  - (a) Cemeteries
  - (b) Hospitals
  - (c) Bed-and-breakfast businesses, so long as all of the following requirements are met:
    - [1] The bed-and-breakfast business shall be located in an owner-occupied dwelling and shall be the sole business use at such residence;
    - [2] Such use shall be clearly incidental and secondary to the use of the dwelling for dwelling purposes;
    - [3] Such use shall be carried on solely by the owner(s) of the dwelling and his, her or their family members, which family members shall also reside at the residence of the owner;
    - [4] Such use shall not change the character of the dwelling and there shall be no external evidence of such use; provided, however, that a nonilluminated sign not to exceed two square feet may be constructed at the premises to identify such bed-and-breakfast business, so long as such sign complies with all other requirements of this chapter;
    - [5] No parties or receptions shall be held except for traditional household events;
    - [6] Breakfast shall be the only meal served to lodgers;

- [7] In addition to all other parking requirements, at least one on-site parking space shall be provided for each available room, and all such parking shall be located behind the front yard setback line; and
- [8] The dwelling in which the bed-and-breakfast business will be operated shall be located on a lot which shall contain at least one acre.

(d) Owner-Proprietor Occupied Neighborhood Business provided:

[1] all of the following criteria and requirements are met or otherwise satisfied:

- [a] Such establishment shall be located in the business owner-proprietor owned or lease (as lessee) dwelling, shall be the sole such business use at such residence, such property owner or lessee shall own and actually reside there and be substantially involved in business operations and such operations shall be fully otherwise conducted by such owner's immediately family members. On premises employees shall be limited to four (4), at any one time and with not more than two (2) employees being other than such owner, or residential occupant of the premises, or his or her immediate family.
- [b] Such use shall be incidental and secondary to the main use of the dwelling for dwelling purposes, shall not change the character of the dwelling or parcel it is situate on, there shall be minimal external evidence of such use; provided, however, that a nonilluminated sign not to exceed two square feet may be constructed at the premises to identify such business, so long as such sign complies with all other requirements of this chapter, and certain uses requiring small scale patron and service entrances and/or windows may be permitted to have same, provided the Village Board determines that permitting the same will not otherwise violate the general criteria and obligations at subparagraphs [f] and [i] hereof.
- [c] In addition to all other parking requirements, such driveway/ parking area(s) shall be situate thereon providing at least one on-site parking space for each non-family/resident employee, as well as (as determined by the Board of Trustees) such parking for customers, clients and patrons, as shall strike a balance between the need for same, public safety and maintaining neighborhood character, and all such parking shall be located behind the front yard building line.
- [d] The dwelling in which the business will be operated shall be located on a lot which shall contain at least one third acre. Interior floor space of any building regulated hereunder shall not exceed 350 square feet for interior space open to the public such as for ordering, purchasing, seating, pickup and the like, and shall not exceed 500 sq. ft. for product preparation, performing of professional or business services, storage "back offices" type work, and all other aspects of the business.
- [e] Specially permitted uses hereunder shall be professional, general business and certain retail services and/or product sale uses intended to serve local neighborhood and nearby customers and generally compatible within neighborhoods, and which are not otherwise permitted in the applicable zoning district under other sections of the Village zoning code. In any event, retail convenience type stores, with or without gas pumps, liquor or alcoholic beverage sale, recycling

or redemption centers and was causing uncharacteristically high volumes of noise, pedestrian or vehicle traffic or potentially noxious uses or effects shall not be permitted.

[f] The permitted location shall be transitional in nature such that adjacent and nearby premises consist of areas zoned for or comprised of similar neighborhood business, commercial or mixed uses, or other non residential uses, or relatively spacious vacant, park or recreational areas it being the intent of this requirement that this specially permitted use not be an isolated business operation situate wholly within an area surrounded only by residential uses.

[g] The use as permitted must be found to not be likely to cause excessive noise, vehicle or pedestrian traffic, loitering or other objectionable assemblages of persons especially during early or late hours of the day, trash, refuse or incidences of vandalism, issues with storm or sanitary drainage sewages, nor excessive lighting adversely affecting nearby properties and residents or otherwise not in character with the neighborhood or district. The permitted use shall have such natural or constructed screening or buffering, by landscape, fencing and/or similar permitted improvements, so as to effect as much as reasonably possible, a screening or buffering of the permitted premises from neighboring residential properties.

[h] All proposed structures, equipment and material shall be readily accessible for fire and police protection.

[i] Any other conditions or criteria as may be established and considered by the Village Board in its capacity as a legislative body, generally under §160-50(D)(1)-(10), and in addition, in this particular instance of review for the purpose of ensuring that the proposed use shall be of such location, size and character that, in general, it will be in harmony with the appropriate and orderly development of the district in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties in accordance with the zoning classification of such properties, compatibility with nearby properties, the neighborhood and community generally and protecting the health, safety and welfare of Village residents.

[j] In connection with the Special Permit issued under this section, and except to the extent waived by the Village Board of Trustees, the applicant shall be required to submit an application, survey map and site plan with such detail as set forth at Village Code (§127-9) governing site plan review and including building elevation drawings showing all detail of the site, any intended improvements, materials and colors. Any Special Permit issued shall be specific to those plans and detail, subject however to any additional requirements or conditions, not violative of the Special Permit, as imposed in connection with any required Site Plan approval.

[2] **Waiver.** In connection with its review and approval of OPONB's, the Village Board of Trustees may grant a waiver, in whole or in part, of any requirement under §160-10B(1)(d)[1]. The Village Board is hereby authorized to waive any of the foregoing standards for the approval, approval with modifications or disapproval of Special Permits submitted for approval and including any requirements relative to the detail and sufficiency of any application for Special Permit or related Site Plan, and which waiver shall be binding upon the Planning Board to the extent conducting Site Plan review. Any such waiver may be exercised as long as the Village Board determines such waiver reasonable, and that such individual

standards are found not to be requisite in the interest of the public health, safety or general welfare or are otherwise inappropriate to a particular Special Permit.

[3] Exercise of Police Powers. This provision of the Village Code respecting the issues of Special Permits for OPONB's, has been enacted specifically pursuant to the Village's zoning and planning authority, and as well as its police powers. Thus any permit considered or issued may take into account and also condition aspects of business operations such as (without limitation) hours of operation and other matters consistent with the Village's authority to safeguard the health safety and welfare of its residents.

[4] Proceedings for OPONB Special Permit. Applications for a Special Permit shall be processed and reviewed in accordance with Village Law §7-725-B and Article XIV of Chapter 160 of the Village Code, however with the Village Board having jurisdiction over the proceeding. Notwithstanding any other provision hereof or of Chapter 160 of the Village Code generally, all Special Permit review and issuance jurisdiction within any Zoning District of the Village shall be that of the Village Board. In the event of any confusion, conflict or dispute as to the applicable procedural or substantive requirements, the Village Board shall determine same conclusively by adoption of an appropriate resolution. On application and after public notice and hearing, the Village Board may authorize the issuance of a Special Permit in the district in which such use is proposed to be located. The Village Board shall review an application's conformity with the individual standards for Special Permits contained herein and shall also have the authority to impose such reasonable conditions and restrictions as are directly related or incidental to the proposed Special Permit. In approving any such use, the Village Board shall further the express intent of this chapter and the accomplishment of the objectives stated herein. Applications for a special permit shall not require site plan, except that the Village Board shall refer the application to the Planning Board not less than thirty (30) days prior to the public hearing. This shall permit the Planning Board to provide such input and public comment as it may see fit at the public hearing. The Village Board shall first deem that the special permit application is complete prior to the scheduling and conduct of any public hearing on the application. The Village Board shall conduct a public hearing within 62 days from the day a complete special permit application is received. Public notice of said hearing shall be printed in a newspaper of general circulation in the Village at least five days prior to the date thereof. The applicant shall cause the posting of a notice on the subject property indicating the date, time, and location of the public hearing, and a brief description of the action being considered, at least 10 days prior the public hearing date. The public hearing notice published and posted by the Village shall be sufficient for such purpose. One notice shall be posted along each property line adjoining a road and shall be clearly visible from said road. Notices shall be affixed securely and protected from the elements by transparent covering on a 4ft. height stake or other sign post and shall be periodically checked by the applicant to ensure its substantially continuous posting. Said notice shall be removed following the close of the public hearing. The applicant shall deliver to the Village an affidavit attesting to the continuous or substantially continuous posting of the notice as required hereunder however, the failure, notwithstanding the applicant's good faith efforts, of the notice to be posted as required hereunder shall not cause the application or proceeding to be defective and shall not, in and of itself, bar the Village from issuance of a special permit. The Special Permit hereunder shall be issued with such conditions and provisions as the Village Board of Trustees may impose based upon their review of the application and applicable criteria.

[5] Renewal; Past Violations. Such permit issued shall be reviewed annually and renewed unless (a) material condition(s) or provision(s) of the Village Code relating to the use or district have been violated

during the past permit year. In said event (i.e., if such violation (s) have occurred during the past permit year) then the Village Board may resolve to not renew the permit, suspend same for a period of time, including until the premises are brought into compliance, further condition the permit to address the violative condition and ensure it does not occur in the future, or assess an enhanced renewal fee as a combined penalty and administrative fee for the violation not to exceed \$500.00. The Village board may likewise consider the nature of the violation, its persistence, incidences of other violations, failure to timely cure, the overall condition of the premises and conduct of the business thereon, the permittee's history of compliance and cooperation, and any other aggravating and mitigating factors in determining the status of a renewal where a violation has occurred. Where the Codes Enforcement Officer finds that the applicant is in noncompliance with the Special Permit, or that complaints have been lodged against the applicant, than such renewal shall require Village Board approval and may be granted only following due public notice and hearing. Renewal may be withheld upon a determination by the Village Board that such conditions as may have been prescribed by the Village Board in conjunction with the issuance of the original permit have not been or are being no longer complied with. In such cases, a period of 60 days shall be granted the applicant for full compliance prior to the revocation of said permit

- [6] Existing Violations. No Special Permit shall be issued for property where the Codes Enforcement Officer has found a violation of this chapter, and where such violation has not been corrected, unless the granting of such Special Permit and site plan approval will result in the correction of said violation.
- [7] Area Variance. Where a proposed Special Permit contains one or more features which do not comply with the zoning regulations, application shall be made to the Zoning Board of Appeals for an area variance. Same being made without the necessity of a decision or determination of an administrative official charged with enforcement of the zoning regulations.
- [8] Deemed to be Conforming. Any use for which a Special Permit may be granted shall be deemed to be a conforming use in the district in which such use is located, provided that such permit shall be deemed to affect only the lot or portion thereof for which such permit shall have been granted. The expansion of any special use shall require reapproval of the Special Permit by the Village Board. For purposes of this subsection, expansion shall be interpreted to mean an increase in the area allocated to the special use, an increase in development coverage; or an increase in the intensity of use, e.g., an increase in traffic or need for on-site parking; or increase in design or use of improvements, interior or exterior, including to accommodate service of increased volumes of customers or clientele.
- [9] Expiration of Special Permits. A Special Permit shall be deemed to have expired if said use ceases operation for a time period equal to or greater than twelve (12) consecutive months for any reason or if construction, in accordance with the conditions of a Special Permit, is not completed within six (6) months from the date of issuance. In addition, the Special Permit shall be deemed to have expired if all improvements are not maintained and all conditions and standards complied with throughout the duration of the Special Permit.

[10] Inspections. In connection with the issuance of a Special Permit, the Village Board may establish a schedule of inspection to be conducted by the Codes Enforcement Officer to determine continued compliance with this chapter and any conditions of the Special Permit.

[11] Fees. Application for a Special Permit or for its renewal, shall be accompanied by a fee to be established in the fee schedule duly adopted by the Village Board.

**Section Two (2). §160-3(B) of the Village of Minoa Code entitled "Terminology" is hereby amended to include the following term and definition:**

"Owner-Proprietor Occupied Neighborhood Business" shall mean a business permitted only under Village Board of Trustees issued Special Permit pursuant to §160-10B(1)(d) of the Village Code.

**Section Three (3). SEVERABILITY.**

If any part of this local law or the application thereof to any person or circumstances is adjudged unconstitutional, illegal or invalid by any court of competent jurisdiction, such judgment shall be confined in its operation or the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity, legality or constitutionality of the remainder of this local law or the application thereof to other persons or circumstances. Further, in adjudging such provision illegal, invalid or unconstitutional, the court shall endeavor to modify same to a provision which is not invalid, illegal or unconstitutional, and which best achieves the intent of the invalid, illegal or unconstitutional provision.

**Section Four (4). EFFECTIVE DATE.**

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

(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. Three of 2013 of the ~~(County)~~(City)(Town)(Village) of Minoa was duly passed by the Village Board of Trustees of the Village on February 20, 2013 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 Officer\*.)~~

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 19\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_\_\_, and was (approved)(not approved)(repassed

\_\_\_\_\_  
(Name of Legislative Body)  
disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_, 199\_\_\_\_  
(Elective Chief Executive Officer\*)

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 199\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_. Such local law was \_\_\_\_\_ (Elected Chief Executive Officer\*) 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 \_\_\_\_\_, 19\_\_, 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 19\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 19\_\_. Such local law was subject to \_\_\_\_\_ (Elected Chief Executive Officer\*) permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, 19\_\_, in accordance with the applicable provisions of law.

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 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 \_\_\_\_\_, 19\_\_, 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 19\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_, 19\_\_, 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 (1) above.

*Lisa DeVona*  
Lisa DeVona, Village Clerk-Treasurer

Date: *February 22*, 2013

(Seal)

(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 ONONDAGA

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.

  
\_\_\_\_\_  
Signature  
Steven J. Primo

Attorney for the  
Title  
County  
City of MINOA  
Town Village

Date: February 22, 2013

\*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a countywide 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.