

April 22, 2010

LOCAL LAW NO. 1 of the Year 2010

FINES AND PENALTIES

A LOCAL LAW amending the Code of the Town of Ossining, Chapter 50 entitled "Accessory Dwelling Units In Single-Family Homes", Chapter 63 entitled "Building Construction", Chapter 82 entitled "Electrical Standards", Chapter 87 entitled "Excavations", Chapter 92 entitled "Filling and Grading", Chapter 112 entitled "Garbage, Rubbish and Refuse", Chapter 148 entitled "Plumbing" and Chapter 200 entitled "Zoning" in connection with fines and penalties fixed therein, in accordance with Town Law and the Municipal Home Rule Law of the State of New York

BE IT ENACTED by the Town Board of the Town of Ossining, as follows:

Section 1. Chapter 50 of the Code of the Town of Ossining entitled "Accessory Dwelling Units In Single-Family Homes" Section 50-10 entitled "Penalties for offenses" is hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 50-10. Penalties for offenses

Any owner or builder or agent of either of them who fails to secure a special permit for an accessory dwelling unit, as provided in this chapter, who allows occupancy of an accessory dwelling unit in violation of the provisions of this chapter or who constructs or causes to be constructed a dwelling with an accessory dwelling unit shall be guilty of an offense punishable by a fine of not less than \$250 nor more than \$2000 [1000] or imprisonment not to exceed 15 days, or by both such fine and imprisonment. [, upon conviction of a first offense and, for the second and each subsequent conviction, by a fine not less than \$1500 nor more than \$2000 or imprisonment not to exceed 15 days, or both. Each week's continued violation shall constitute a separate additional violation.]

Section 2. Chapter 63 of the Code of the Town of Ossining entitled "Building Construction" Section 63-14 entitled "Penalties for offenses" Subsection B is hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 63-14. Penalties for offenses

B. Any person who shall fail to comply with a written order of the Building Inspector within the time fixed for compliance therewith and any owner, builder architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction or use of any building, who shall knowingly violate any of the applicable provisions of this chapter or any lawful order, notice, directive, permit or certificate of the Building Inspector made thereunder, shall be punishable by a fine and/or imprisonment pursuant to Section 382 [385] of the New York Executive Law.

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Section 3. Chapter 82 of the Code of the Town of Ossining entitled "Electrical Standards" Sections 82-7 and 82-23 both entitled "Penalties for offenses" are hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 82-7. Penalties for offenses

Any person committing an offense against any provision of this article shall be guilty of a violation punishable by imprisonment for a term not exceeding 15 days or by a fine of not less than [exceeding] \$100. [250.] nor more than \$1000 or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 82-23. Penalties for offenses

Any person committing an offense against any provision of this article shall be guilty of a violation punishable by imprisonment for a term not exceeding 15 days or by a fine of not less than [exceeding] \$100. [250.,] nor more than \$1000. or by both such fine and imprisonment. The continuation of an offense against the provisions of this article shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Section 4. Chapter 87 of the Code of the Town of Ossining entitled "Excavations" Section 87-10 and Section 87-18 both entitled "Penalties for offenses" are hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 87-10. Penalties for offenses

Any person or persons, partnership, association or corporation doing or permitting to be done or causing to be done any act contrary to the provisions of Articles I and II hereof shall be guilty of a violation, and, upon conviction thereof, shall be subject to a fine of not less [more] than \$100. [\$250.] nor more than \$1000. or to imprisonment for not more than 15 days, or both, for each offense. Every violation of any provision of Part 1 of this chapter shall be a separate and distinct offense, and in case of continuing violation, every day's continuance thereof shall be and is deemed to be a separate and distinct violation.

Section 87-18. Penalties for offenses

For a violation of the provisions of Part 2 of this chapter, the owners, general agent or contractor of a building or premises where such violations have been committed or shall exist and the lessee or tenant of the premises where such violation has been committed or shall exist and the owner, general agent, contractor, lessee, or tenant of any part of the premises in which part of said violation has been committed or shall exist and the general agent, architect, engineer, surveyor, building contractor or any other person who knows, permits, takes part in or assists in any such violation or who maintains any premises in which any such violation shall exist shall be guilty of a violation, punishable by a

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fine of not less [more] than \$100. nor more than \$1000. [\$250.] or by imprisonment for not more than 15 days, or both. Each day that the said violation is permitted to continue shall constitute a separate additional violation.

Section 5. Chapter 92 off the Code of the Town of Ossining entitled "Filling and Grading" Section 92-10 entitled "Penalties for offenses" is hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 92-10. Penalties for offenses

Any person violating this chapter may be subject to a civil penalty or to a criminal penalty, enforceable and collectible by the Town in an amount [up to \$250.] of not less than \$100. nor more than \$1000. or 15 days imprisonment, or both fine and imprisonment. Each week's continued violation shall be considered to be a separate violation. Nothing contained in the preceding section of this chapter shall prevent the Town Board from maintaining an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of any provisions of this chapter or any rule or regulations promulgated hereunder.

Section 6. Chapter 112 of the Code of the Town of Ossining entitled "Garbage, Rubbish and Refuse" Sections 112-9, 112-15 subsection B and 112-22 subsection B, all entitled "Penalties for offenses" are hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 112-9. Penalties for offenses

Any person, firm or corporation violating any provision of this Article shall be punished by a fine of not less [more] than \$100. nor more than \$1000. [two hundred fifty dollars (\$250.)] or by imprisonment for not more than fifteen (15) days, or both, for each offense, and a separate offense shall be deemed committed on each day during or on which a violation occurs or continues. The fact that any swill, garbage, refuse or rubbish remains on any occupant's premises in the town in violation of this Article shall be prima facie evidence that the occupant of such premises is responsible for the violation of the Article.

Section 112-15. Penalties for offenses

B. Any person, firm or corporation violating any provision of this Article shall, in addition, be guilty of a violation punishable by a fine of not less than \$100. nor more than \$1000. [to exceed two hundred fifty dollars (\$250.)] or by imprisonment for not more than fifteen (15) days, or both.

Section 112-22. Penalties for offenses

B. Any person, firm or corporation violating any provision of this Article shall, in addition, be guilty of a violation punishable by a fine of not less than \$100. nor more than \$1000. [to exceed two hundred fifty dollars (\$250.)] or by imprisonment for not more than fifteen (15) days, or both.

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Section 7. Chapter 148 of the Code of the Town of Ossining entitled "Plumbing" Section 148-3 entitled "Penalties for offenses" is hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 148-3. Penalties for offenses

Any person who violates or refuses to comply with or resists any section of this chapter or any part of the State Building Code applicable thereto shall be subject to a fine and/or imprisonment in accordance with the provisions of Section 382 [385] of the Executive Law of the State of New York.

Section 8. Chapter 200 of the Code of the Town of Ossining entitled "Zoning" Section 200-43 entitled "Penalties for offenses" subsection A is hereby amended to read and provide as follows, with new matter underlined and matter to be deleted in [brackets]:

Section 200-43. Penalties for offenses

- A. A violation of any provision or requirement of this chapter or a violation of any statement, plan, application, permit or certificate required, issued and/or approved under the provisions of this chapter, or of the terms or conditions contained therein, shall be considered an offense punishable by a fine of not less [more] than \$100. nor more than \$5000. [\$350] [and/] or imprisonment for a period not to exceed fifteen days [six months], or both such fine and imprisonment. Each and every day that any such violation continues after the specified time to abate shall constitute a separate offense. [for conviction of a first offense; by a fine of not less than \$350 nor more than \$700 and/or imprisonment for a period not to exceed six months for conviction of a second offense, both offenses of which were committed within a period of five years; and by a fine of not less than \$700 nor more than \$1,000 and/or imprisonment for a period not to exceed six months upon conviction of a third or subsequent offense, all of which offenses were committed within a period of five years.]

Section 9. Except as amended herein, all other provisions of the Code of the Town of Ossining shall remain the same.

Section 10. This Local Law shall take effect immediately upon publication and posting as required by law.