

NEW YORK STATE DEPARTMENT OF STATE
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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.

Town of OSSINING

Local Law No. _____ **of the year 2015**

A local law entitled "Local Law # _____ of 2015, for the Purpose of Adding a Chapter Entitled 'Architectural Review Board' to the Town Code."

Be it enacted by the TOWN BOARD
of the

Town of OSSINING **as follows:**

TEXT COMMENCES ON NEXT PAGE

(If additional space is needed, attach pages the same size as this sheet, and number each.)

LOCAL LAW # ____ OF THE YEAR 2015

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

SECTION 1: TITLE

This Local Law shall be known and cited as “Local Law #__ of 2015, for the Purpose of Adding a Chapter Entitled ‘Architectural Review Board’ to the Town Code.”

SECTION 2: LEGISLATIVE INTENT

The Ossining Town Board has a desire to create and implement an Architectural Review Board for the review and approval of certain kinds of building construction in the Town. The enactment of this chapter is determined to be an exercise of the police powers of the Town to protect the public health, safety and welfare of its residents. The enactment of this chapter also serves to implement provisions of the Town’s Comprehensive Plan.

SECTION 3: NEW CHAPTER OF TOWN CODE

A new chapter shall be added to the Town Code which shall read as follows:

CHAPTER 55: ARCHITECTURAL REVIEW BOARD

§ 55-1. Title; enabling authority.

- A. This chapter shall be known as the “Architectural Review Board (ARB) Law of the Town of Ossining.”
- B. This chapter is enacted pursuant to the Municipal Home Rule Law and any and all applicable laws, rules and regulations of the State of New York. Nothing contained herein shall be deemed to conflict with any such laws, rules and regulations.

55-2. Definitions and word usage.

- A. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings.
- B. The following terms shall, for the purpose of this chapter, have the meanings herein indicated:

BUILDING

Any combination of construction materials used to, intended to be used to, or potentially able to be used to house or shelter any use or occupancy, except where located entirely underground. The term “building” shall include porches, porticoes and other similar structures.

BUILDING INSPECTOR

The Building Inspector of the Town of Ossining.

CELLAR

Any space in a building, the structural ceiling level of which is less than four feet above the average finished grade where such grade abuts that exterior wall of such building which fronts on any street.

GROSS FLOOR AREA

The sum of the gross horizontal areas of the several floors of the building or buildings on a lot measured from the exterior faces of exterior walls or from the center line of party walls separating two buildings, excluding any cellar areas.

PLANNING BOARD

The Planning Board of the Town of Ossining.

TOWN

The unincorporated portions of the Town of Ossining.

TOWN BOARD

The Town Board of the Town of Ossining.

- C. Words used in the present tense include the future; the plural includes the singular; and the word “lot” includes the word “plot.”

§ 55-3. Purposes and intent.

- A. The Town Board of the Town of Ossining hereby finds that it is in the best interest of the Town residents, and protective of their health, safety and welfare, to enact this chapter of the Town Code for the creation of an Architectural Review Board.
- B. The Town Board hereby finds that monotonous similarity, striking dissimilarity, visual discord or inappropriateness, and visually offensive, incompatible or other poor quality of design in the exterior appearance of buildings and structures can adversely affect the desirability of the immediate and neighboring areas, impair the use of property, impact the stability in value of both improved and unimproved property, prevent the most appropriate development, and contribute to the

diminution of the taxable value of property and their ability to support municipal services provided therefor.

- C. It is the purpose of this legislation to preserve, promote and provide future enhancement of the character and appearance of buildings and structures, and to conserve the property values of the Town, and the attractiveness of its residential and business areas which are the economic mainstays of the community, by providing procedures for an architectural review of buildings and structures henceforth erected, reconstructed or altered in the Town, and thereby:
- (1) Encourage good qualities and appearances of the exterior design of buildings and structures.
 - (2) Relate such design and appearances to the sites and surroundings of buildings and structures.
 - (3) Permit originality and resourcefulness in building design and appearances which are appropriate to the sites and surroundings.
 - (4) Prevent such design and appearances as are deemed inappropriate and detrimental to the visual environment.
- D. It is the intent of the Town Board to ensure high standards and consistent criteria for the design of residential and non-residential buildings and structures and the Board hereby enacts this chapter to achieve the above stated purposes.

§ 55-4. Creation and membership.

There is hereby created an ARB that shall consist of the members of the Town Planning Board, who shall serve concurrently on the ARB and the Planning Board. The Chair of the Planning Board shall be the Chair of the ARB. The meetings of the ARB shall be held concurrently with the meetings of the Planning Board.

§ 55-5. Jurisdiction.

- A. The ARB shall approve, approve with conditions, or deny all applications for the design of proposed buildings made to it, which applications shall be made in conjunction with the following:
- (1) An application for site plan, conditional use permit or special permit approval pursuant to §§ 200-49, 50 or 45, or Article X of the Zoning chapter of the Town Code.

- (2) An application for approval of a cluster development pursuant to § 200-31 of the Zoning chapter of the Town Code.
- (3) An application for a building permit to:
 - [1] construct a new residential building;
 - [2] enlarge an existing residential building by at least 1,000 square feet of gross floor area; and/or
 - [3] enlarge an existing residential building by at least 50% of its gross floor area.
- B. Approval or approval with conditions by the ARB shall be a prerequisite of the issuance of a building permit for the project.
- C. The approval or approval with conditions of the ARB may be included in any other approval that the Planning Board may grant.

§ 55-6. Application.

- A. The application to the ARB shall include the following, prepared by an architect or engineer registered in New York State unless waived by the Planning Board, drawn at a scale adequate to clearly and accurately portray the project:
 - (1) Detailed elevation drawings of the proposed building construction and its primary design elements including facades, windows, doors, roofs and roof structures, exposed mechanical equipment, etc.
 - (2) A site plan of the lot with zoning setbacks and other dimensions clearly marked, including existing and proposed topography at two-foot contour intervals, and trees regulated pursuant to Chapter 183, Tree Protection, of the Town Code.
 - (3) The size, shape and location of existing and proposed construction and their relationship to adjacent properties, buildings and structures.
 - (4) The location of existing and proposed plantings, screening devices, walls and fences, as well as an indication of their height and construction materials.

- (5) An indication of existing and proposed freestanding and building-mounted exterior lighting adequate to determine their features and illumination, and to enable review of possible hazards and disturbances on- and off-site.
 - (6) Photographs of the subject lot, and of buildings and structures within 350 feet of said lot.
 - (7) Samples of exterior building materials, treatments and finishes, and the color palette for painted surfaces.
 - (8) Identification of all other required Town approvals.
 - (9) Other information and materials as may be required by the ARB including but not limited to sectional drawings, color-rendered perspective drawing(s) and/or 3-dimensional view(s) of proposed work.
- B. The ARB, at its sole discretion, may waive any of the requirements of subsection A immediately above where, due to character, size, location or special circumstances, any particular information is not required to properly and adequately review the project.

§ 55-7. Public hearing.

- A. The ARB shall hold a public hearing on every application made to it.
- B. Notice of said public hearing and of the substance of the application shall be given by publication in the official newspaper of the Town at least 10 days before the date of such hearing. In addition to such published notice, the ARB shall cause such notice to be mailed at least 10 days before the hearing to all owners of property which lie within 500 feet of any lot line of the property for which the approval is sought and to such other persons as the ARB may deem advisable. The names of said owners shall be taken as they appear on the last completed assessment roll of the town. Provided that due notice shall have been published and there shall have been substantial compliance with the remaining provisions of the section, the failure to give notice in exact conformance herewith shall not be deemed to invalidate any action taken by the ARB in connection with the granting of such approval.
- C. In the case of an application for ARB approval in conjunction with site plan, conditional use permit and/or cluster development approval from the Planning Board, the ARB public hearing shall be held concurrently with the hearing held by the Planning Board for said latter approval(s).

§ 55-8. Standards.

- A. In considering an application, the ARB shall take into account the natural and manmade features of the site and its surroundings, and the character of the zoning district and its peculiar suitability for particular purposes, with a view to conserving existing values and encouraging the most appropriate use of land.
- B. The Board may approve an application referred to it upon finding that the building or structure for which the permit was requested would be in harmony with the purposes of this chapter, would not be visually offensive or inappropriate because of the poor quality of exterior design, would not constitute monotonous similarity or visual discord in relation to the site or its surroundings, would not mar the appearance of the area, would not be detrimental to the character of the neighborhood, and would not prevent an appropriate development and utilization of the site and adjacent lands.
- C. In approving any application, the ARB may impose appropriate conditions and safeguards designed to prevent harmful effects. Such conditions and safeguards may include modification of the proposed design, and/or screening, planting, fencing or other methods.
- D. The ARB may conditionally approve, subject to specified modifications, or disapprove any application provided that the ARB finds the project as proposed would be so detrimental to the desirability, property values or development of the site and/or surrounding areas so as to cause one or more of the harmful effects set forth below:
 - (1) Monotonous similarity to any other structure or structures located or proposed to be located on the same street or a corner thereof and within 350 feet of the subject site, with respect to one or more of the following features of exterior design or appearance:
 - (a) Substantially identical facade, disregarding color.
 - (b) Substantially identical size and arrangement of either doors, windows, rooflines, porticoes, porches or garages or other openings or breaks or extensions in the facade, including reverse arrangements.
 - (2) Striking dissimilarity, visual discord or inappropriateness in general or with respect to other structures located or proposed to be located on the same street or a corner thereof and within 350 feet of the subject site, with respect to one or more of the following features of exterior design or appearance:

- (a) Visual offensiveness or inappropriateness because of the poor quality of exterior design, visual discord in relation to the site or its surroundings, marring of the appearance of the area, being detrimental to the character of the neighborhood, or preventing an appropriate development and utilization of the site and adjacent lands.
- (b) Visual offensiveness of the façade, or the size or arrangement of doors, windows, rooflines, porticoes, porches or garages, or other openings or breaks or extensions in the facade.
- (c) Visual offensiveness or other poor quality of exterior design, including with respect to the harmony or discord of colors, or incompatibility of the proposed building or structure with the terrain on which it is proposed, including but not limited to excessive divergences in the height of the level of any part of the structure from the grade of the terrain.

§ 55-9. Fees.

- A. Applications for action pursuant to this chapter shall be accompanied by payment of the fee that shall be set by resolution of the Town Board in the Fee Schedule.
- B. Escrow accounts.
 - (1) In addition to the payment of the fees required in Subsection A of this section, the ARB shall adjust the fees sufficiently to reimburse the Town for the cost of professional consultation fees and other expenditures attributable to the proposal. The ARB shall establish an escrow account, as follows, funded by the applicant in connection with authorizing the performance of professional consulting services regarding the proposal.
 - (2) At the time of the submission of any application and prior to its review by the ARB, the ARB shall require the establishment of an escrow account, from which withdrawals shall be made to reimburse the Town for the cost of professional consultation services. The applicant shall provide funds to the Town for deposit into such account in the amount set by resolution of the Town Board in the Fee Schedule. It is the intent of these regulations to ensure that the applicant always has on deposit with the Town adequate funds to ensure that the Town will never subsidize application review or inspection costs at any time.

- (3) The applicant shall be provided with copies of the consultant's invoice or Town's costs for such services as they are submitted to the Town. When an escrow account is drawn down to 50% of its original amount resulting from payment of said invoice, the applicant shall be required to deposit additional funds into such account to bring its balance up to 100% of the original amount. If such account is not fully replenished within 21 days of notice to the applicant for additional funds, the ARB shall suspend its review of the application. In the case of post approval inspections and reviews involving construction, the Town may issue a stop-work order for such nonpayment.
 - (4) No approval shall be granted until all professional consultation fees charged in connection with the review of the project have been reimbursed to the Town. No building permit or certificate of occupancy shall be issued unless all professional consultation fees charged in connection with the review and inspection of the project have been reimbursed to the Town. No refunds of any funds remaining on deposit in escrow shall be issued until after all pertinent professional review and inspection charges have been reimbursed to the Town.
 - (5) The escrow account established by the ARB may be the same escrow account established by the Planning Board in connection with site plan, conditional use permit or cluster development approval pursuant to §§ 200-49, 50 or 31 of the Zoning chapter of the Town Code.
- C. A fee shall be charged for each pre-application meeting with the ARB Chair and professional consultant(s) to discuss concepts, etc. in the amount set by resolution of the Town Board in the Fee Schedule.

§ 55-10. Penalties for offenses.

- A. Any person who violates any provision of this chapter shall be guilty of an offense punishable by a fine of not more than \$1,000. For a second and subsequent offense within a one-year period, the violator shall be guilty of a violation punishable by a fine of not more than \$2,000. Each violation of this chapter shall amount to a separate offense.
- B. In addition to any other penalty, any person, firm or corporation or individual connected with such firm or corporation violating any provision of this chapter shall be subject to a civil penalty enforceable and collectible by the Town in the amount of \$500 for each and every violation of this chapter.

- C. No certificate of occupancy shall be issued for any new construction on the property on which occurred any violation of this chapter unless and until the provisions of the chapter have been complied with. Further, any site plan approval, special permit, conditional use permit or building permit associated with the violation will be suspended or revoked until steps taken by the offender meet the satisfaction of the ARB. Work may only resume upon the issuance of a certificate of completion by the Building Inspector.

§ 55-11. Enforcement.

The Town Board hereby designates the Building Department with the responsibility of the enforcement of the provisions of this chapter.

§ 55-12. Existing or prior operations or projects.

The provisions of this chapter shall not apply to any land use, improvement or development for which a valid, existing final approval shall have been obtained prior to the effective date of this chapter from the authority or authorities of the Town of Ossining having jurisdiction over such land use. As used in this section, the term "final approval" shall mean:

- A. In the case of a site plan, conditional use permit or special permit, approval by the appropriate board.
- B. In those cases not covered by subsection A immediately above, the issuance of a building permit for the improvement for which such permit was issued.

§ 55-13. Amendments.

This chapter may be amended by the Town Board after due notice and public hearing.

§ 55-14. Severability.

If any clause, sentence, paragraph, section or part of this chapter 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 rendered.

SECTION 4: RATIFICATION, READOPTION AND CONFIRMATION

Except as specifically modified by the amendments contained herein, the Code of the Town of Ossining as adopted and amended from time to time thereafter is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

SECTION 5: **INCLUSION IN CODE**

It is the intention of the Ossining Town Board and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Ossining; that the sections and subsections of this Local Law may be renumbered or relettered to accomplish such intention; and that the words “local law” shall be changed to “chapter,” “section” or other appropriate word, as required for codification.

SECTION 6: **RENUMBERING**

The location and numerical designation of this Local Law and the sections included herein shall be delegated to the discretion of the codifier, General Code, which may renumber this Local Law and sections as are necessary to accommodate these amendments.

SECTION 7: **CODIFICATION**

This Local Law shall be incorporated into the Code of the Town of Ossining and shall be assigned a chapter number and appropriate section numbers by the codifier, General Code, in accordance with the numbering system of the Code.

SECTION 8: **CODIFIER’S CHANGES**

This Local Law shall be included in the Code of the Town of Ossining. The codifier shall make no substantive changes to this Local Law, but may renumber, rearrange and edit it without first submitting it to the Ossining Town Board. Any such rearranging, renumbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

SECTION 9: **SEPARABILITY**

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause,

sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

SECTION 10: **EFFECTIVE DATE**

This Local Law shall take effect immediately upon adoption and filing with the Secretary of State as provided by the Municipal Home Rule Law.

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