

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET
ALBANY, NY 12231

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Local Law Filing

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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 2016

A local law entitled "Local Law # _____ of 2016, for the Purpose of Amending the Zoning and Cabaret Chapters of 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 2016

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 2016, for the Purpose of Respectively Amending the Zoning and Cabaret Chapters of the Town Code."

SECTION 2: LEGISLATIVE INTENT

The Ossining Town Board has a desire to respectively amend the Zoning and Cabaret chapters of the Town Code with respect to a variety of matters in order to update and improve these chapters. This local law is determined to be an exercise of the police powers of the Town to protect the public health, safety and welfare of its residents. This local law also serves to implement recommendations of the Town's Comprehensive Plan.

SECTION 3: ZONING CHAPTER AMENDMENTS

1. Section 200-18.A(18) shall be deleted as follows:

~~(18) Self-storage facilities and related business offices, subject to the following special requirements:~~

~~(a) No outdoor storage of any kind shall be permitted.~~

~~(b) No such use shall be permitted on a lot having less than 100,000 square feet.~~

~~(c) No building on a lot devoted to such use shall have a footprint more than 10,000 square feet.~~

~~(d) All buildings on a lot devoted to such use shall have the narrowest side of such buildings facing toward the principal public street on which the lot is located.~~

~~(e) Notwithstanding any provisions of this chapter to the contrary, the following shall apply:~~

~~[1] The minimum front yard setback for a detached, small security gatehouse and fencing shall be 50 feet.~~

~~[2] The minimum front yard setback for principal buildings shall be 90 feet.~~

~~[3] The minimum side yard setback adjacent to a nonresidential district shall be 10 feet.~~

2. Sections 200-18.A(19) and (20) shall be renumbered (18) and (19) respectively.

3. Section 200-18.D shall be revised to read as follows:¹

D. Setback and ~~screening~~landscape requirements for nonresidential uses that are contiguous to residentially used or residentially zoned lots.

- (1) All nonresidential buildings and structures shall be set back at least 30 feet from the lot lines of a contiguous residentially used or residentially zoned lot.
- (2) Between any nonresidential use and a residentially used or residentially zoned lot, an buffer area at least ~~20~~15 feet wide with landscape screening shall be provided. Such plantings shall be a mix of evergreen shrub and coniferous tree species, shall have an initial height of at least six feet, shall have a depth of 10 feet and shall be planted close enough to form a visual barrier~~create a buffer and adequately screen views of the nonresidential use. At the sole discretion of the approval authority, a~~ six-foot-high wall or fence, suitable in appearance to the surrounding area, may be substituted for the landscape plantings. Proper maintenance of all fencing and landscape plantings shall be a continuing requirement. All fences shall be installed with the more attractive side facing neighboring properties.
- (3) Driveways for any nonresidential use shall be located at least ~~20~~15 feet from a residentially used or residentially zoned lot.
- (4) Parking areas for any nonresidential use shall be located at least ~~20~~15 feet from a residentially used or residentially zoned lot. Such parking areas shall be screened from adjoining lots with a mix of evergreen shrub and coniferous tree plantings having an initial height of at least six feet, a depth of ~~10~~eight feet, and planted close enough to form a visual barrier. At the sole discretion of the approval authority, a six-foot-high wall or fence, suitable in appearance to the surrounding area, may be substituted for the

¹ These amendments relate to Zoning Issue #1: Evaluation of the buffer requirements for commercial uses and the transition setbacks for non-residential uses adjacent to residential areas, and recommendations as to whether the provisions are sufficient or need to be updated.

landscape plantings. Proper maintenance of landscaping shall be a continuing requirement. All fences shall be installed with the more attractive side facing neighboring properties.

4. **Section 200-18.1 shall be revised to read as follows:**²

§ 200-18.1 GB-1 General Business District-1.

In a GB-1 District, no building or premises shall be used and no building or part of a building shall be erected or altered which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following, and all uses shall be subject to site plan approval in accordance with § 200-50 hereof.

A. Permitted uses.

(1) ~~Any permitted use permitted in and as regulated by the GB General Business District.~~

~~(2)~~(1) Warehouse and storage facilities and related business offices, provided that there is no outdoor storage of any kind.

(2) Public utility structures which only serve the local area.

(3) Buildings and uses owned and operated by the Town.

B. Accessory uses.

(1) Off-street parking and loading spaces, subject to the requirements in § 200-29A(1) and B, excluding the outdoor parking of construction equipment.~~Any accessory use permitted in and as regulated by the GB General Business District.~~

(2) Accessory signs advertising only activities conducted on the lot are permitted, provided that they do not exceed two feet in height nor 25% of the length of the building. Such signs shall be attached to the wall of the building and shall not project more than 15 inches beyond the face of such wall. Signs projecting above the roof or beyond the side walls are prohibited.

² These amendments relate to Zoning Issue #4: The GB-1 zone refers to the GB district for most of its permitted uses, and the GB uses have changed materially in recent years. Analysis and recommendations as to whether the uses currently permitted in the GB-1 zone are appropriate. (The footnotes herein will be removed from the final version of the local law.)

- (3) Freestanding signs advertising only activities conducted on the lot; however, no such sign shall exceed 20 square feet in area on each side and 10 feet in height from the ground level to the top of the sign, and no part of said sign shall extend over the lot or street line.

C. Miscellaneous provisions.

- (1) If there is a conflict between the provisions of this section and any other applicable section of this Zoning ~~chapter~~ Ordinance, the provisions of this section shall control.
- (2) Front, side and rear setback requirements otherwise applicable may be increased up to a factor of two, reduced or eliminated to the extent deemed appropriate by the Planning Board in their sole discretion on site plan review pursuant to Article XI hereof, based upon the topography, slopes, grades, site distances and highway conditions and configurations as found by the Planning Board and upon a finding by the Planning Board that any such increase, reduction or elimination shall not adversely impact adjacent or abutting properties in considering visual, economic, environmental, ecological, safety and health effects.

5. **Section 200-17 of the Zoning chapter shall be revised to read as follows:³**

§ 200-17. NC Neighborhood Commercial District.

In an NC Neighborhood Commercial District, no building or premises shall be used, and no building or part of a building shall be erected or altered, which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following, and all such uses shall be subject to site plan approval in accordance with § 200-50 hereof.

A. Permitted uses.

- (1) Stores and shops for the conduct of any retail business, excluding drive-in establishments.
- (2) Personal service establishments, ~~excluding automobile laundries, gas stations and all other similar automotive service establishments, undertakers and funeral parlors.~~

³ These amendments relate to Zoning Issue #3: Consideration as to whether to change the zoning designation and permitted uses for the General Business-1 (GB-1) and Neighborhood Commercial (NC) districts to a One-Family Residence District (R-5 or R-7.5) so that these areas are more consistent with the surrounding residential uses and zoning districts in Crotonville.

- (3) Fully enclosed eating and drinking establishments, provided that no live entertainment or live music is supplied or dancing permitted.
- (4) Business, professional and governmental offices.
- (5) Public utility structures which only serve ~~ing the~~ a local area.
- (6) Fire and police stations.
- (7) ~~Self-service or hand laundry and dry cleaning establishment, provided that not more than two workers shall be engaged in the dry cleaning process and which contain one or more dry cleaning units having an aggregate dry-load capacity of not more than 60 pounds.~~

B. Accessory uses.

- (1) Off-street parking and loading space subject to the requirements in § 200-29A(1) and B.
- (2) Accessory signs.
 - (a) Accessory signs, subject to § 200-28, advertising only activities conducted on the lot are permitted, provided that they do not exceed two feet in height nor 25% of the length of the building. Such signs shall be attached to the wall of the building and shall not project more than 15 inches beyond the face of such wall. Signs projecting above the roof or beyond the side walls are prohibited.
 - (b) Freestanding pole signs advertising only activities conducted on the lot which are affixed to a single upright pole; however, no such sign shall exceed 20 square feet in area on each side and 10 feet in height from the ground level to the top of the sign, and no part of said sign shall extend over the lot or street line.
 - (c) A building on a corner may have a sign on two facades, one sign facing each street.

C. Special requirements.

- (1) Where feasible in an NC District, all buildings shall be serviced from a rear service road not less than 25 feet wide. Said service road may be counted as available for access to the required off-street parking spaces.

~~D. Uses permitted by special permit upon approval by the Town Board in accordance with Article X hereof. The following uses are permitted subject to approval by the Town Board in accordance with the provisions of Article X hereof. The uses are subject to the requirements set forth therein and elsewhere in this chapter, including site plan approval by the Planning Board in accordance with § 200-50 hereof.~~

~~(1) Fully enclosed eating and drinking establishments where live entertainment or live music is supplied or provided.~~

~~(2) Fully enclosed eating and drinking establishments where music is provided for dancing and dancing is permitted.~~

6. The following definitions in Section 200-53.A of the Zoning Chapter shall be amended to read as follows:⁴

BED-AND-BREAKFAST ESTABLISHMENT – An owner-occupied one-family detached dwelling that also contains guest rooms, where short-term lodging with food and drink is provided for compensation. The term “bed-and-breakfast establishment” shall not include an inn, a boarding house or a rooming house.

HEIGHT, BUILDING – The vertical distance measured from the average elevation of the finished grade at the front of the building to the highest point of the roof for flat and mansard roofs and to the mean height between eave and ridge for other types of roofs.

INN – A commercial establishment operating as a small hotel that provides lodging, food and other amenities for travelers and the public. Seating for food and beverage service shall be limited to the number of guests staying at the inn. An inn shall be limited to 15 guest rooms. The term “inn” shall not include a bed-and-breakfast establishment, a boarding house or a rooming house.

RETAIL STORE OR SHOP – A business enterprise which ~~only~~ sells merchandise on premises at retail prices directly to the ultimate consumers.

WHOLESALE ESTABLISHMENT – A business enterprise engaged in buying large quantities of materials or merchandise and selling such materials or merchandise at wholesale prices to other businesses or entities ~~for distribution~~, rather than selling at retail prices directly to the ultimate consumers.

⁴ These amendments relate to Zoning Issue #6: Determination as to which pertinent uses and terms need to be defined (or better defined) such as, for example, in the difference between wholesale and retail commercial operations.

7. A new Section 200-26.1 shall be added and shall read as follows:

§ 200-26.1. Bed-and-breakfast establishments.

- A. The maximum number of guest bedrooms shall be eight and the minimum lot size for the establishment of this use shall be as shown in the following table:

<u>Maximum Number of Guest Bedrooms</u>	<u>Minimum Lot Size (square feet)</u>
<u>3</u>	<u>15,000</u>
<u>4</u>	<u>20,000</u>
<u>6</u>	<u>30,000</u>
<u>8</u>	<u>40,000</u>

- B. Off-street parking shall be screened from adjacent residential properties to the satisfaction of the approval authority.

- C. The outward appearance of the use shall be that of a one-family dwelling and there shall be no indication of the bed-and-breakfast establishment from the exterior of the building, except for the sign.

- D. Seating for food and beverage service shall be limited to the number of guests staying at the bed-and-breakfast establishment.

- E. There shall be no kitchen facilities in the guest bedrooms except for a coffee maker and a small refrigerator.

- F. The bed-and-breakfast establishment shall be owner-occupied.

SECTION 4: REZONING OF PARCELS

The zoning of the parcels listed below is hereby changed from the Existing Zoning District to the New Zoning District as shown in the table:⁵

<u>Tax Parcel Number</u>	<u>Subject Property Address</u>	<u>Owner's Name</u>	<u>Existing Zoning District</u>	<u>New Zoning District</u>
80.14-1-29	35 Old Albany Post Rd. Ossining, NY	2 Stanley Avenue Corp.	NC	R-5

⁵ These amendments relate to Zoning Issue #3: Consideration as to whether to change the zoning designation and permitted uses for the General Business-1 (GB-1) and Neighborhood Commercial (NC) districts to a One-Family Residence District (R-5 or R-7.5) so that these areas are more consistent with the surrounding residential uses and zoning districts in Crotonville.

80.18-2-15	33 Old Albany Post Rd. Ossining, NY	Kenneth R. Lamboy	NC	R-5
80.18-2-16	31 Old Albany Post Rd. Ossining, NY	Kenneth R. Lamboy	NC	R-5
80.18-2-17	29 Old Albany Post Rd. Ossining, NY	Richard John Pataro	NC	R-5
80.18-2-18	27 Old Albany Post Rd. Ossining, NY	Richard John Pataro	NC	R-5
80.18-2-19	25 Old Albany Post Rd. Ossining, NY	Richard G. Chrapowitzky	NC	R-5
80.18-2-22	23 Old Albany Post Rd. Ossining, NY	Old Albany Post Holdings, Inc.	NC	R-7.5
80.18-2-23	20 Old Albany Post Rd. Ossining, NY	Francesco Mendes	NC	R-7.5
80.14-1-28	39 Old Albany Post Rd. Ossining, NY	Susan M. Curtin	GB-1	R-7.5
80.14-1-30	37A Old Albany Post Rd. Ossining, NY	Watsky & Damm, Inc.	GB-1	<i>Alternative #1 R-7.5</i>
80.14-1-30	37A Old Albany Post Rd. Ossining, NY	Watsky & Damm, Inc.	GB-1	<i>Alternative #2 NC</i>
80.18-2-20	1 Cliff Drive Ossining, NY	Karl Kehrle	R-5	R-7.5

SECTION 5. ZONING MAP CHANGES

The Zoning Map of the Town of Ossining is hereby amended to show the changes specified in Section 4 above. A map showing the proposed rezonings entitled "Zoning Map Proposal" dated August 22, 2016 is attached hereto as Figure 1.

SECTION 7: CHAPTER 68, CABARETS, TEXT AMENDMENTS⁶

Section 68-20 shall be amended to read as follows:

§ 68-20. Hours of operation; music; noise; exterior lighting.

⁶ These amendments relate to Zoning Issue #7: Evaluation of the existing standards for cabarets, restaurants with music, and bars to determine whether they need to be amended.

- A. No cabaret shall be open any day between the hours of 3:00 a.m. and 11:59 a.m. In addition, the Town Board, in accordance with § 68-7 hereof, may further limit the hours of operation of such cabaret. If any cabaret is found open between the prohibited hours, the person owning, managing, operating or conducting the cabaret shall be held responsible for a violation of the provisions of this chapter in relation to such closing.
- B. No cabaret shall have amplified music outdoors at any time, nor shall such music be played indoors after 11:00 p.m. Sunday through Thursday nights, nor after 12:00 midnight on weekends.
- C. As per § 130-5.A of Chapter 130, Noise, of this Code, no person shall operate or use or cause to be operated loudspeakers, musical instruments or other sound production devices so as to produce sounds which are plainly audible inside a residence between the hours of 10:00 p.m. and 7:00 a.m. At no time shall sound from these sources exceed the limitations set forth in Table 1 in § 130-4.C(1), which shall be reduced by five dBA for sound from sound-production devices. Sound-level measurements for compliance determination shall be conducted at or within the property line of an affected person. In addition, loudspeakers and other sound equipment must face into the geometric center of the property on which they are located.
- D. All exterior lighting in connection with the cabaret shall be directed away from adjoining streets and properties and shall not cause any objectionable glare observable from such streets or properties. Hours of lighting may be limited by the Town Board in acting on any cabaret license. No exterior lighting shall produce illumination beyond the property on which it is located in excess of 0.5 footcandles.

SECTION 6: 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 7: 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 8: 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 9: 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 10: 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 11: 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 12: 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.

Attachment: Figure 1