

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

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Local Law Filing

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Town of OSSINING

Local Law No. 2 of the year 2017

A local law entitled "Local Law # 2 of 2017, for the Purpose of Amending the Zoning,
Tree Protection 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 # 2 OF THE YEAR 2017

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 # 2 of 2017, for the Purpose of Respectively Amending the Zoning, Tree Protection and Cabaret Chapters of the Town Code.”

SECTION 2: LEGISLATIVE INTENT

The Ossining Town Board has a desire to respectively amend the Zoning, Tree Protection 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: CHAPTER 200, ZONING, 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:

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 20-45 feet wide with native, non-invasive landscape screening shall be provided. Such plantings shall be a mix of evergreen shrubs, and coniferous and deciduous tree species. Said coniferous trees shall have an initial height of at least six feet, said deciduous trees shall have a minimum caliper of four inches as measured 12 inches above finished grade, and said trees shall have an expected ultimate height which suits their intended purpose, 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 or be required to supplement the landscape plantings as a visual barrier for the residential property from the nonresidential use.~~ Proper maintenance of all fencing and landscape plantings shall be a continuing requirement. All such vegetation shall be maintained in a healthy and vigorous growing condition; all vegetation not so maintained shall be replaced with new comparable vegetation at the beginning of the next growing season. All fences shall be installed with the more attractive side facing neighboring properties.
- (3) Driveways for any nonresidential use shall be located at least 20-45 feet from a residentially used or residentially zoned lot.
- (4) Parking areas for any nonresidential use shall be located at least 20-45 feet from a residentially used or residentially zoned lot. Such parking areas shall be screened from adjoining lots with a mix of native, non-invasive evergreen

shrubs, and coniferous and deciduous tree species plantings. Said coniferous trees shall have an initial height of at least six feet, said deciduous trees shall have a minimum caliper of four inches as measured 12 inches above finished grade, and said trees shall have an expected ultimate height which suits their intended purpose, a depth of eight feet, and shall be 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 or be required to supplement the landscape plantings as a visual barrier for the residential property from the nonresidential use. Proper maintenance of landscaping shall be a continuing requirement. All such vegetation shall be maintained in a healthy and vigorous growing condition; all vegetation not so maintained shall be replaced with new comparable vegetation at the beginning of the next growing season. 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:

§ 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 and private garages, 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.
- (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 shall be revised to read as follows:**

§ 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-thru in establishments.

- (2) ~~Personal service establishments, excluding automobile laundries, gas stations and all other similar automotive service establishments, undertakers and funeral parlors.~~
- (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 the local area.
- (6) Fire and police stations.
- (7) Artist live/work spaces, subject to the following provisions:
 - (a) An artist live/work space may exist on the first floor of a structure only if the appearance and use of the live/work space on the street side is consistent with the nature of the permitted uses in the surrounding area. For example, if the surrounding area is retail in nature at the first-floor level, the live/work space shall be restricted to retail on the street side of the first floor, and said street side space shall be large enough, in the opinion of the Building Inspector, to support a typical retail enterprise.
 - (b) Each artist live/work space and its various components shall be physically separate and distinct from other live/work spaces and other uses within a particular building. The sharing of artist live/work spaces by multiple tenancies, components thereof or utilities shall not be permitted. However, access to live/work spaces may be provided from common access areas, halls or corridors.
 - (c) Each artist live/work space must be individually equipped with an enclosed bathroom containing a sink, toilet, shower or tub and appropriate venting.
 - (d) Each artist live/work space must be individually equipped with a kitchen consisting of a sink, non-portable stove, oven and refrigerator.
 - (e) Each artist live/work space must contain a floor area of no less than 800 square feet, of which a minimum area shall be devoted to the following: 35 square feet for an enclosed bathroom, 60 square feet for a kitchen, and 120 square feet for a sleeping area.

- (f) No more than 30% of the floor area of the artist live/work space may be devoted to residential space.
- (g) Direct access between living and working areas must be provided.
- (h) In order to ensure that the use is consistent with the other commercial uses, artist live/work spaces shall not be used for classroom instructional uses with more than two pupils at any one time; the storage of flammable liquids or hazardous materials; welding; or any open-flame work. Further, the work in the live/work space shall be so conducted as not to cause noise, vibration, smoke, odors, humidity, heat, cold, glare, dust, dirt or electrical disturbance which is perceptible by the average person located within any other residential or commercial unit within the structure or beyond any lot line.
- (i) Not more than one person who is 18 years of age or older may reside within an artist live/work space per 300 square feet of residential floor area. Further, not more than two persons who are at least 18 years of age, of which at least one of whom is an artist in residence, and not more than two children of said persons who are under 22 years of age may reside within a live/work space on a year-round basis.
- (j) Only one nonresident employee may be employed within an artist live/work space. This requirement may be waived for live/work spaces that provide retail space on the first floor.
- (k) Other than in a first-floor retail-oriented area, articles offered for sale within a live/work space must include those produced by the artist residing in said live/work space and may be offered with other like items.
- (l) One flush-mounted, non-illuminated sign, with a maximum area of two square feet, attached adjacent to or near the street entrance door to the live/work space may be used to identify the artist. This sign may list only the name of the artist with a one- or two-word description of the type of artwork or craft that is to be conducted within the live/work space. Where two or more live/work spaces occur within the same building, the signs must be placed in an orderly fashion in relation to each other and must be part of a coherent directory in which signs are ordered in a horizontal fashion. Where five or more live/work spaces are developed within one

building, an interior directory sign shall be located in lieu of individual signs on the building exterior.

(m) Residential space and work space shall not be rented separately or used by persons other than those people legally residing within the artist live/work spaces and permitted nonresident employees.

(n) All live/work spaces shall conform to all applicable building codes.

(o) For the purposes of this permitted use, artists shall only be those persons working exclusively with paint, paper, clay and/or other soft materials, and this use shall include photography, jewelry making, graphic arts and other similar relatively quiet endeavors as determined by the Planning Board in reviewing the proposed site plan application. Tattoo appliers, body piercers and musicians shall not be considered artists for the purpose of this use.

(p) Each artist live/work space shall be inspected by the Building Department every two years in order to determine whether the artist live/work space remains in compliance with this section. Upon a satisfactory inspection report, the artist live/work space owner shall be reissued a certificate of occupancy for two additional years. If the Building Inspector determines that the artist live/work space is not in compliance, the building owner or manager shall have 60 days in which to rectify all noncomplying elements and shall apply for re-inspection with the Building and Planning Department, subject to an additional fee. If all such noncomplying elements are not rectified within the above-specified time frame, the certificate of occupancy for the use shall expire and the use as authorized by the site plan approval shall be terminated.

(q) The owner of the live/work space shall file a certification with the Building and Planning Department every two years, and at any point in time when there is a change in ownership or a change in the use of the space, on a form provided by said department, which certifies that the live/work space is in conformance with the Zoning chapter and the approved site plan, and that the residential portion of the space has not been expanded beyond a maximum of 30% of the floor area of the live/work space, as required by subsection (f) above.

(r) The deed, offering plan, certificate of occupancy and/or rental agreement, as appropriate, for each artist live/work space shall

contain language, satisfactory to the Town Attorney in form and substance, which states that the subject dwelling is an artist live/work space as defined in § 200-53 of the Zoning chapter of the Code of the Town of Ossining, New York, and is subject to all restrictions and limitations as set forth in said chapter and the approval resolution(s), including the requirement for a certification with the Building Department in accordance with § 200-17.A(7)(q). Proof of recording of the deed shall be provided to the Building and Planning Department within 60 days after the conveyance.

~~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.~~

(8) Mixed uses, as defined in this chapter, subject to the following provisions:

(a) The lot on which the mixed use is proposed shall be at least 20,000 square feet in size.

(b) The lot on which the mixed use is proposed shall not be adjacent to or across the street from any lot on which exists the housing of dogs as a principal use.

(c) The minimum size of the respective dwelling units shall be as follows:

[1] Studio and efficiency dwellings: 450 square feet.

[2] One-bedroom dwellings: 675 square feet.

[3] Two-bedroom dwellings: 750 square feet.

[4] Three-bedroom dwellings: 1,000 square feet.

[5] Four-bedroom dwellings: 1,200 square feet.

(d) Mixed use shall be permitted only in buildings which conform to the New York State Residential Code for the proposed mixed use.

(e) The residential and nonresidential uses in a mixed-use building shall have separate means of access (this is, the entrance/exit for

residential use shall not be through the nonresidential use of the building, and vice versa), except that the Planning Board may, at its discretion, approve the use of a common lobby or plaza.

(f) The nonresidential and residential uses of the building shall each be provided with the number of parking spaces required by § 200-29A herein.

(g) General on-site landscaping and screening, as deemed appropriate by the Planning Board, shall be provided. Further, all utility, storage, service and parking areas on the site of the mixed-use building shall be specifically screened by means of landscaping and/or fencing, to the extent deemed necessary and practical by the Planning Board, in order to minimize the impact of these areas upon the residential use of the building and upon the surrounding area.

(h) Dwelling units shall not be permitted above restaurants or any other use deemed by the Planning Board to be incompatible with a residential use in the building.

(i) There shall be no outdoor storage associated with the residential use.

(j) Dwelling units shall not be permitted in basement or cellar space.

(9) One-family detached dwellings, not to exceed one dwelling on each lot permitted in, and as regulated in, the R-5 Residence District.

(10) Two-family detached dwellings, not to exceed two dwellings on each lot as regulated by the bulk requirements in Attachment 2:1 applicable to the R-10 Residence District.

(11) Multiple dwellings and row or attached dwellings, as defined in this chapter, subject to the following requirements:

(a) The lot on which the dwellings are proposed shall be at least 15,000 square feet in size and there shall be a minimum of 5,000 square feet of lot area per dwelling unit permitted.

(b) The minimum size of the respective dwelling units shall be as follows:

[1] Studio and efficiency dwellings: 450 square feet.

[2] One-bedroom dwellings: 675 square feet.

[3] Two-bedroom dwellings: 750 square feet.

[4] Three-bedroom dwellings: 1,000 square feet.

[5] Four-bedroom dwellings: 1,200 square feet.

(c) This use shall be permitted only in buildings which conform to the New York State Residential Code for the proposed use.

(d) General on-site landscaping and screening, as deemed appropriate by the Planning Board, shall be provided. Further, all utility, storage, service and parking areas on the site shall be specifically screened by means of landscaping and/or fencing, to the extent deemed necessary and practical by the Planning Board, in order to minimize the impact of these areas upon the surrounding area.

(e) Dwelling units shall not be permitted in basement or cellar space.

(f) No building shall exceed 150 feet in length.

(g) The minimum distance between principal buildings shall equal two times the height of the highest building, and the minimum distance between a principal and an accessory building shall be 20 feet.

(h) Not more than one building identification sign of an area not greater than 14 square feet and located in the front or side yard may be permitted.

(i) The maximum number of dwelling units in a group of row or attached dwellings shall be six.

B. Accessory uses.

(1) Off-street parking and loading spaces and private garages subject to the requirements in § 200-29A(1) and B, excluding the outdoor parking of construction equipment.

(2) Accessory signs for non-residential uses.

- (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 shall be amended to read as follows:

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.

MIXED USE - A building that has a nonresidential use permitted in the zoning district in which it is located ~~GB District~~ on the street level and residential use of the level(s) above.

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.

7. The following is a new definition which shall be added to Section 200-53.A:

ARTIST LIVE/WORK SPACE - A single residential unit, which unit is designed for and occupied as a combination of living, artist studio and artist work space, with or without retail space for art work, for year-round residence by not more than two persons who are at least 18 years of age, of which at least one of whom is an artist in residence, and by not more than two children of said persons who are under 22 years of age.

8. 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>2</u>	<u>20,000</u>
<u>3</u>	<u>30,000</u>
<u>4</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.
- G. The maximum length of stay for any guest at the bed-and-breakfast establishment shall be two weeks.

9. A new Section 200-21.C shall be added and shall read as follows:

- A. The maximum floor area of a one-family residence shall be equal to: $5,000 + ((\text{lot area} - 43,560) * 0.052521)$.

10. The following two new uses and corresponding parking requirements shall be added to the schedule in Section 200-29.A(1):

Use	Minimum Required Off-Street Parking Spaces
<u>Artist live/work space</u>	<u>1 space for each dwelling unit, plus 1/4 space for each bedroom, plus 1/2 space for each live/work space containing retail area</u>
<u>Bed-and breakfast establishment</u>	<u>1 space for each guest sleeping room, plus 2 spaces for the dwelling unit, plus 1 space for each nonresident employee</u>

11. A new Section 200-50.A(4) shall be added and shall read as follows:

- A. Objectives. In considering and acting upon site plans, the Planning Board shall take into consideration the public health, safety and welfare and the comfort and convenience of the public in general and of the residents of the proposed development and of the immediate neighborhood in particular and may prescribe such appropriate conditions and safeguards as may be required in order that the result of its action shall, to the maximum extent possible, further the expressed

intent of this chapter and the accomplishment of the following objectives in particular:

[Sections 200-50.A(1), (2) and (3) shall remain intact.]

(4) Lighting.

(a) Outdoor lighting shall be provided on the site to assure the safe movement of vehicles and persons and for security purposes. Exterior lighting in connection with all buildings, signs and other uses shall be downward pointing, properly designed and shielded, and directed away from adjoining streets and properties so as to avoid any objectionable glare from being observable from such streets and properties.

(b) The hours of lighting may be limited by the Planning Board in acting on any site plan so as to prevent undesirable impacts on neighboring properties and streets.

(c) No use shall cause illumination beyond the property on which it is located in excess of 0.5 footcandles, or the equivalent, as demonstrated by an illumination contour plan.

(d) The color temperature of outdoor lighting shall not exceed three thousand Kelvin (3,000K).

12. Sections 200-30.A and B regarding uses prohibited in all districts shall be revised to read as follows:

- A. Any use which is noxious, offensive or objectionable by reason of the emission of smoke, dust, gas, odor or other form of air pollution or by reason of the deposit, discharge or dispersal of liquid or solid wastes in any form in a manner or amount so as to cause permanent damage to the soil and stream or to adversely affect the surrounding area or by reason of the creation of noise, vibration, electromagnetic or other disturbance ~~or by reason of illumination by artificial light or light reflection beyond the limits of the lot on or from which such light or light reflection emanates;~~ or any use which involves any dangerous fire, explosive, radioactive or other hazard or which causes injury, annoyance or disturbance to any of the surrounding properties or to their owners and occupants; and any other process or use which is unwholesome and noisome and may be dangerous or prejudicial to health, safety or general welfare.

- B. Artificial lighting facilities of any kind which cause illumination beyond the property on which it is located in excess of 0.5 footcandles, or the equivalent~~with light sources visible beyond the lot lines which create glare beyond such lines.~~

[Sections 200-30.C and D shall remain intact.]

13. Section 200-50.D(4) shall be revised to read as follows:

- (4) Proposed development.
- (a) The location of proposed buildings or structural improvements.
 - (b) The location and design of all uses not requiring structures, such as off-street parking and loading areas. Permeable pavement shall be used for said parking and loading areas unless otherwise approved by the Planning Board.
 - (c) The location, direction, power and time of use for any proposed outdoor lighting or public address systems.
 - (d) The location and plans for any outdoor signs.
 - (e) The location and arrangement of proposed means of access and egress, including sidewalks, driveways or other paved areas. Profiles indicating grading and cross sections showing width of roadways, location and width of sidewalks, and location and size of water- and sewer lines. Permeable pavement shall be used for said driveways and other paved areas unless otherwise approved by the Planning Board.
 - (f) Any proposed grading, screening and other landscaping, including types and locations of proposed street trees. Structural soil shall be used in the planting of landscaping and street trees in areas that would pose as a barrier to air, water and/or root growth at the plant's mature size.
 - (g) The location of all proposed water lines, valves and hydrants and of all sewer lines or alternate means of water supply and sewage disposal and treatment.
 - (h) An outline of any proposed easements, deed restrictions or covenants.
 - (i) Any contemplated public improvements on or adjoining the property.

- (j) If the site plan only indicates a first stage, a supplementary plan shall indicate ultimate development.

14. Section 200-50.D shall be revised to read as follows:

- D. Site plan elements. The applicant shall cause a site plan map to be prepared by a civil engineer, surveyor, land planner, architect or other competent person. The site plan shall include those of the elements listed herein which are appropriate to the proposed development or use as indicated by the Planning Board in the presubmission conference. Those items which are shown graphically, shall be shown in a manner(s) which allows the Planning Board to envision the various elements of said development or use including, at the discretion of the board, the preparation of plans, sections, elevations, perspectives, etc., as applicable.

[Sections 200-50.D(1) through (4) shall remain intact, except as amended above.]

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:

Tax Parcel Number	Subject Property Address	Owner's Name	Existing Zoning District	New Zoning District
80.14-1-30	37A Old Albany Post Rd. Ossining, NY	Watsky & Damm, Inc.	GB-1	NC
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 "Proposed Zoning – Exhibit A" dated March 23, 2017 is attached hereto.

SECTION 6: CHAPTER 68, CABARETS, AMENDMENTS

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

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

- A. No cabaret shall be open any day between the hours of 3:00 a.m. and 11:59 a.m., except where the cabaret is permitted by State law to be open during those hours, in which case the cabaret may be open only during those hours permitted by the State. In addition, the

Town Board, in accordance with § 68-7 hereof, may further limit the hours of operation of such cabaret, so long as said limitations are not inconsistent with the hours the cabaret is permitted to be open under State law, if applicable. 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. The Town Board may, in its sole discretion, extend or limit the hours a cabaret may play music beyond what is permitted herein, where it deems it appropriate and consistent with the public safety and welfare.
- 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 7: CHAPTER 183, TREE PROTECTION, AMENDMENTS

1. **The following new definitions shall be added to Section 183-4:**

TREE BANK - Town-owned lands or Town right-of-way lands to be designated by resolution of the Town Board as receiver sites for off-site mitigation plantings to satisfy tree replacement requirements which can not be met on-site.

TREE BANK FUND - A fund to be established by and administered in accordance with a resolution of the Town Board providing for the payment of fees as mitigation for removal of trees where tree replacement requirements can not be met on-site.

2. Section 183-11.B shall be amended to read as follows:

B. Notwithstanding any other factors, the removal of a regulated tree may be favored by the approval authority if:

- (1) The tree(s) is located near existing or proposed improvements, especially if:
 - (a) The tree(s) is within three feet of an existing or proposed sidewalk or driveway;
 - (b) The tree(s) is within 10 feet of an existing or proposed cesspool, dry well, leaching pit, septic tank or field or other subsurface improvement;
 - (c) The tree(s) is within 10 feet of any other existing or proposed structure; or
 - (d) The proposed subsurface improvement, structure, sidewalk, driveway or roadway cannot be relocated.
- (2) The tree removal(s) will have a net positive effect upon matters, including but not necessarily limited to:
 - (a) Drainage patterns in the vicinity.
 - (b) Growth of existing or proposed adjacent vegetation.
 - (c) Property values and aesthetics of nearby properties and that of the property owner.
 - (d) Solar access of nearby properties and that of the property owner.
- (3) The property owner shall ~~replant~~ replacement trees of a similar native, non-invasive species ~~or add other vegetation~~ to offset the negative effects of the tree removal, based upon an approved graphic plan. The applicant shall meet the minimum requirement of the replacement of 50% of the total aggregate diameter of trees removed with new trees in accordance with the plan for tree replacement. Tree replacement shall be required on-site unless the approving authority determines that, because of site constraints, it is

impracticable or impossible to fully meet the mitigation requirements on-site. In such case, upon the establishment of a tree bank and/or a tree bank fund by resolution of the Town Board, the approving authority may consider the off-site mitigation of planting in the tree bank or the payment of a fee to the tree bank fund to satisfy the unmet portion of the tree replacement requirements. Implementation of any off-site mitigation planting plan shall require prior approval by the Town Board.

- (4) The tree is an invasive species.
- (5) The presence of the tree would cause hardship or endanger the public or the property of the owner or of an adjoining owner.
- (6) The tree substantially interferes with a permitted use or the enjoyment of the property.
- (7) The tree is diseased or threatens the health of other trees.

SECTION 8: 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 9: 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 10: 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 11: 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 12: 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 13: 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 14: 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: Zoning Map