



AGENDA
TOWN BOARD
TOWN OF OSSINING
BIRDSALL-FAGAN POLICE COURT FACILITY
86-88 SPRING STREET – OSSINING, NEW YORK
NOVEMBER 13, 2018

7:30 P.M.

SUPERVISOR
Dana A. Levenberg

COUNCILMEMBERS
Karen M. D'Attore Elizabeth R. Feldman
Jackie G. Shaw Northern Wilcher, Jr.

I. CALL TO ORDER-PLEDGE OF ALLEGIANCE-ROLL CALL

The Regular Meeting of the Town Board of the Town of Ossining was held on November 13, 2018 in the Birdsall-Fagan Police Court Facility, 86-88 Spring Street, in Ossining. The meeting was called to order at 7:30 p.m. by Supervisor Dana A. Levenberg. Members of the Board present were: Councilmembers Elizabeth Feldman, Karen D'Attore, Jackie G. Shaw and Northern Wilcher, Jr., Also present were Town Counsel Christie Tomm Addona, Budget Officer Madeline Zachacz and Interim Town Clerk Victoria Cafarelli.

II. PUBLIC HEARINGS IN THE MATTER OF:

(Visitors shall be accorded one (1) three (3) minute opportunity to address the public hearing)

At 7:31 pm, the Public Hearing was opened.

- Public Hearing- Local Law #4- Leaf Blowers

At 7:32 p.m., Councilmember Feldman moved and it was seconded by Councilmember D'Attore that the Public Hearing be adjourned to November 27, 2018.

At 7:32 pm, the Public Hearing was opened.

- Public Hearing- Local Law #6-Solar Energy

Supervisor Levenberg stated that now we will re-open the public hearing on Proposed Local Law #6 of 2018 regarding Solar Codes. Last week at our work session, Carlos Desmeras attended and then submitted some comments to us that he would like to be considered as part of the public record. I forwarded them to the clerk, but specifically he highlighted some areas for consideration with an eye to changes in technology in solar storage materials that are on the horizon. They have also been shared with the board and I would like to ask the board if, in addition to any comments we receive tonight, they would like to have one more work session to consider these comments?

Below are the comments/letter received from Mr. Desmeras regarding Solar Energy

November 8, 2018
Ms. Dana Levenberg
Town Supervisor
16 Croton Ave.
Ossining, NY 10562

RE: Comments to proposed amendments to local zoning with respect to solar energy systems
Dear Ms. Levenberg,

Below please find my concerns and comments about the draft legislation. I am afraid I will not be able to attend the public hearing on November 13th as I will be travelling. I would appreciate however, that these be included as part of the record of that meeting.

Should you have any questions regarding these comments feel free to reach me at 914.373.8498 or by email.

Sincerely,
Carlos Desmaras
78 Somerstown Road
Ossining, NY 10562

Undefined or poorly defined terms:

Ground mounted solar system: Solar powered garden lights appear to meet this definition. A minimum energy generating capacity should be stipulated. Additionally, it does not apply to a system that is not anchored to the ground, e.g. a system that floats on water on a small barge, or one that is merely placed on the ground and its supports weighted down.

Mechanical Equipment: Appears on pg. 7, and is not defined anywhere. I note that the principal pieces of equipment other than panels on a solar installation are inverters and batteries and these are electrical and not mechanical equipment.

Solar Collector: The definition includes solar hot water systems. These systems are generally small and should not be “roped in” with permitting requirements of “larger” scale solar installations.

Qualified solar installer: Not defined in the document. I suggest that the town not require “certified” installers as this will sharply increase the cost to the homeowner of an installed system. Most solar installers capture the entire tax benefit of these systems, and sell these systems at such elevated costs that the payback period for homeowners extends to 20-30 years (by the way 25 years is the estimated useful life of these assets, so the homeowner recoups his/her investment right about the time it has to be scrapped). Ossining to my knowledge does not have any Certified Solar Installation Companies, so any economic development policy aspect of promoting employment is moot. I would also add that fires or other hazards that can hypothetically develop from a solar installation are extremely rare to the point of being non-existent. Moreover, certified installers do not provide an extra layer of safety, as getting certified requires merely taking a short online course. Finally, the industry is moving towards DIY and eliminating the high cost installer, for example, IKEA has begun offering solar systems for the DIY market in Europe, here is the link: <https://www.ikea.com/gb/en/ikea/solar-panels/>.

Worrisome overuse of “reasonable” as a standard: Overreliance on someone determining what is reasonable lends itself to all kinds of problems. Best to define what is reasonable or to provide illustrations/narratives that can serve as guideposts.

Impervious surface: Essentially all ground-mounted systems have a De Minimis impact on the amount of impervious surface, as the ground remains uncovered. However, as defined in the draft, the ground under the panel is defined as impervious.

Anti-reflective coating: Not defined and probably unnecessary.

Section H: This appears to be directed to Tier 3, but reads that it “provides requirements for site plan applications”. Site plan applications are required for Tier 2 applications that is a residential application. Section H is clearly onerous for a homeowner.

Missing timeline: This proposed law imposes a laundry list of requirements on the homeowner or community solar or solar farm developer but the Town is not

required to complete the review and permitting process in a reasonable amount of time. May I suggest a two-business day turnaround?

Requires cash deposit in an amount to ensure good faith performance... and removal: Not clear what “ensure good faith performance” translates into dollars and cents. This should be made into a \$ or % of installed cost requirement. I understand that decommissioning may be a concern for a Tier 3 system in particular where the land is leased to the solar developer. Yet, even in that case should the town have a role here? After all the landowner has sufficient incentive to make sure the equipment is removed once the lease is up.

Unnecessary restrictions:

Tier 1 & 2 cannot exceed 900 square feet (30 X 30): This is overly restrictive as a variety of solar technologies that make good sense in a residential application could easily require more than 900 square feet. Examples that come to mind include: Tesla’s proposed solar tiles, and thin film solar panels. The later are a type of panel is currently less efficient than a crystalline/silicon panel. However, thin film panels can be manufactured at a lower cost and can provide better economics. Because they are less efficient, they require more space for the same amount of installed capacity. Thin film is employed in large/utility scale applications where its much lower cost of installation and lower cost per panel results in superior project economics. However, thin film is making its way into residential applications. The proposed 900 sq. ft. limit would likely limit the use of solar tiles and thin film in Ossining.

Tier 2 cannot generate more than 110% of the electricity used on the site in the last year: Why impose this limit? What is the policy goal? A homeowner may wish to sell power to the grid as a business. Why not allow that? Additionally, a homeowner may find him or herself in such a situation quite easily as only a percentage of installed solar capacity is actually put to use (nighttime, cloudy days, rain, etc.) and must therefore a system must be “oversized”. A dry and sunny year can easily result in production in excess of 110%.

The law/regulation applies to a grandfathered installation if the homeowner increases capacity by 5.0%: Appears to be an onerous requirement as a homeowner that replaces broken or older panels with more powerful new ones or adds a single panel to an existing system will find themselves subject to these laws and potentially required to incur large and expensive modifications.

Must be installed by qualified solar installer: See section above.

35% maximum impervious surface: Tier 3 systems are overly burdened by the 35% max as it requires leasing or buying approximately 3 times the amount of land that will actually be used. This has a large impact on economics.

Tier 2 cannot be installed in “front” yards: Certain properties in Ossining have vast front yards and installing panels in the front yard may be the best location and not represent an eyesore.

At 7:35 p.m., Councilmember Shaw moved and it was seconded by Councilmember Feldman that the Public Hearing be adjourned to November 27, 2018.

Travis Scott CVE Group advised the Board that he is in support this Solar Energy Local Law.

III. ANNOUNCEMENTS

Supervisor Levenberg announced the following:

This past weekend, our nation paused to celebrate and thank all those who have served our military, and spent some time contemplating the idea of service. I would like to, once again, thank all of the brave men and women of our community who have served and who continue to defend and protect us around the world. I would also like to recognize the Central Committee of Organized War

Veterans and the American Legion Post 506 for representing us so proudly at the local level—we are truly blessed to have such an honored history of service here in Ossining.

We also have some exciting news today, as the paving on Hawkes Avenue was completed yesterday. We are sure that the residents of the neighborhood are going to be pleased with their new smooth ride home, and I want to thank our Highway Superintendent Michael G. O'Connor for his coordination and oversight, as well as our Highway Foreman, Matteo Verlardo and his crew and for the help from Parks and Cemetery crews for helping prep the road and making sure the result was up to the standards of our residents. We look forward to discussing the next road to get the royal treatment with our Highway Department early next year.

On Thursday, November 15th, the [Ossining Documentary and Discussion Series](#) will host a screening of “Plastic Paradise,” a documentary about the Great Pacific Garbage Patch. Did you know that the largest plastic accumulation zone on earth, or the GPGP, covers an area twice the size of Texas in the ocean between Hawaii and California? How did this happen? What can we do to fix it? Learn more next Thursday in the Budarz Theater beginning at 6:30PM. The film will be followed by a panel discussion and this event is free to the public.

Opening that very evening, as well, is “Of Aliens and Avocados,” a series of one-act readings at the Westchester Collaborative Theater. Beginning the evening of Thursday the 15th and lasting through the afternoon of Sunday the 18th, come to see seven original pieces written by some fantastic playwrights and performed right here in Ossining—visit www.wctheater.org to get your tickets.

On the evening of Friday, November 16th, check out Deni Bonet live at the Steamer Fire House at 117 Main Street. Deni is not only a singer-songwriter but an electric violinist, and she has toured and recorded with artists like Cyndi Lauper, REM and Sarah McLachlan. Doors open at 7:15PM for an 8PM show—tickets are \$20 each (\$15 if you're an OAC member) and are available at www.ossiningartscouncil.org.

Also on Friday evening (11/16), the Bethany Arts Community will be holding their first annual Fundraiser, “The Art of Giving,” between 7 and 10PM. Bethany has been such a welcome addition to our community and I am so pleased to celebrate them in this way, while thanking them for the programming they have offered while learning about what's coming up next. At last count, there were only 36 tickets left, so make haste! www.bethanyarts.org is where you can secure yours.

Another choice that evening that will make you feel good about giving back is the Festive Tea to benefit the Ossining Children's Center. Hosted by Tastefully Yours on Pleasantville Road in Briarcliff Manor, get into the holiday spirit with proceeds going to benefit OCC. This event will also take place on the evening of Saturday, November 17th. Tickets are available for purchase at Holbrook Cottage, also on Pleasantville Road, or at www.holbrookcottage.com, for \$125 each. Can't make it to the event but still want to help? A portion of proceeds from sales at Holbrook Cottage on the 16th and 17th will also go to benefit OCC. Get your holiday shopping squared away while helping one of our community's worthiest organizations.

The Sing Sing Swing is coming up this Sunday, have you bought your tickets yet? Climb aboard the Hornblower “Hybrid” for a night of music, dancing and history as we cruise up the Hudson River from Yonkers and see Ossining from a whole new vantage point! Proceeds benefit the Sing Sing Prison Museum project, which is well underway, and will be a transformative project not just for Ossining, but for Westchester and all of the Hudson Valley. Visit www.singsingprisonmuseum.org to get your tickets today!

Believe it or not, Thanksgiving is coming up next week, which means that the shopping season is upon us. Shop local at the Northeast Etsy Artist Collective on Friday November 23rd between 11AM and 5PM, and Saturday November 24th between 10AM and 4PM, right in our very own Ossining Public Library. You can

pick up locally crafted gifts for the holidays and 15% of the proceeds will go to benefit the Friends of the Ossining Public Library. Always great when you can direct your spending right back into our community!

You can wander from there straight over to Melita's Bazaar on Main Street as well for more local gift options on Saturday, November 24th from 10-5pm. And another local gift favorite is Campwoods Holiday Craft Fair on Saturday December 1st from 10a-5p and Sunday December 2nd from 11a-4p so you have lots of options to buy your gifts locally!

On November 26th, participate in Meet the Entrepreneur Next Door with Ossining Innovates, 7-9pm at Good Choice Kitchen. Meet Soli Pierce from Sherwood Forest Design David Schofielf from SBS Printing and shipping and learn more about our local entrepreneurs and their success stories.

Finally, as we are now well into November, please be reminded that there is no on-street parking allowed in the Unincorporated Town from November 1st through March 31st. As we are seeing some light snow in the forecast, now is as good a time as any to refresh your memory about on-street parking in the Village of Ossining too— better safe than sorry!

IV. LIAISON REPORTS

V. DEPARTMENTAL REPORTS

VI. BOARD RESOLUTIONS

A. Approval of Minutes-Regular Meeting

Councilmember Feldman moved and it was seconded by Councilmember Shaw that the following resolution be approved.

Resolved, that the Town Board of the Town of Ossining hereby approves the October 9, 2018 minutes of the Regular Meeting as presented.

**Motion Carried:4-0-1
Ayes: Feldman, D'Attore, Shaw
& Levenberg
Abstain: Wilcher**

B. Approval of Minutes-Special Meeting

Councilmember Feldman moved and it was seconded by Councilmember Shaw that the following resolution be approved.

Resolved, that the Town Board of the Town of Ossining hereby approves the October 16, 2018 minutes of the Special Meeting as presented.

**Motion Carried:3-0-2
Ayes:Feldman,Shaw&
Levenberg
Abstain: Wilcher & D'Attore**

C. Approval of Minutes-Regular Meeting

Councilmember Shaw moved and it was seconded by Councilmember Feldman that the following resolution be approved.

Resolved, that the Town Board of the Town of Ossining hereby approves the October 23, 2018 minutes of the Regular Meeting as presented.

Motion Carried:4-0-1
Ayes: Feldman, D’Attore, Shaw & Levenberg
Abstain: Wilcher

D. Approval of Minutes-Special Meeting

Councilmember Shaw moved and it was seconded by Councilmember D’Attore that the following resolution be approved

Resolved, that the Town Board of the Town of Ossining hereby approves the November 1, 2018 minutes of the Special Meeting as presented.

Motion Carried:3-0-2
Ayes:D’Attore,Shaw& Levenberg
Abstain: Wilcher & Feldman

E. Approval of Voucher Detail Report

Councilmember D’Attore moved and it was seconded by Councilmember Shaw that the following resolution be approved

Resolved, that the Town Board hereby approves the Voucher Detail Report dated November 13, 2018 in the amount of \$176,665.71.

Supervisor Levenberg stated that this week, we have a somewhat light voucher detail report as we get back into our regular schedule—we had several bills for the engineering design and boring tests out on McCarthy Drive, and we paid OVAC our last payment for 2018.

Motion Carried: Unanimously

F. Finance- Capital Project #2018-5212 – North State Road Bike Lane - Phase One

Councilmember Feldman moved and it was seconded by Councilmember Shaw that the following resolution be approved

Resolved, that the Town Board of the Town of Ossining authorizes opening a 2018 Capital Project #2018-5212, entitled “North State Road Bike Lane – Phase One”, with a project budget of \$80,000 for planning and phase one implementation of a bike lane on North State Road. The project will be funded by grant funds from Hudson River Valley Greenway and NYSERDA.

Increase: 3705110.200.5212	\$80,000 – North State Road Bike Lane – Phase One (Expense)
Increase: 370030.3089.5212	\$50,000 – NYSERDA Grant Funding (Revenue)
Increase: 370279.2798.5212 (Revenue)	\$30,000 – Hudson River Valley Greenway Grant Funding

Motion Carried: Unanimously

G. Calling for a Public Hearing-2019 Preliminary Budget

Councilmember Wilcher moved and it was seconded by Councilmember Feldman that the following resolution be approved

Resolved, that the Town Board of the Town of Ossining hereby calls for a Public Hearing to be held on Tuesday, November 27th, 2018 at 7:30 p.m. at the Birdsall-Fagan Police/Court Facility, 86-88 Spring Street, Ossining, NY in the matter of the 2019 Preliminary Budget for the Town of Ossining.

Supervisor Levenberg stated that we will complete our internal meetings with department heads tomorrow (Wednesday) between 9:30AM and 2:30PM at 16 Croton—these meetings are open to the public so feel free to join us on the 3rd

floor of 16 Croton. Our budget presentation will be at our Work Session next Tuesday at 16 Croton Ave starting at 7:30. Please join us for that meeting as well, or catch it on YouTube.

Motion Carried: Unanimously

H. Status and Hourly Rate Change- Interim Town Clerk/ Confidential Secretary to the Supervisor

Councilmember Shaw moved and it was seconded by Councilmember Wilcher that the following resolution be approved

Whereas, in July 2018, the Town Board appointed Victoria Cafarelli, Confidential Secretary to the Supervisor, to a second-line position of Town Clerk on a temporary basis at a rate of \$23.00 per hour; and

Whereas, Ms. Cafarelli has been working approximately 30 hours per week between those two titles, which the Town Board believes should afford her status as a full-time employee;

Therefore be it Resolved, that the Town Board of the Town of Ossining hereby increases her hourly rate in the position of Town Clerk to \$35 per hour effective November 13th, 2018; and

Be it Further Resolved, that the Town Board does hereby confer upon Ms. Cafarelli “full time” status, which includes treatment as prescribed by the Town of Ossining Elected and Appointed Officials Handbook for so long as she continues to work in excess of 30 hours per week between these two titles.

Supervisor Levenberg stated that as you may remember, Town Clerk Mary Ann Roberts has been out tending to some medical issues since this past summer, and the Town Board appointed Victoria Cafarelli to serve as Interim Town Clerk until Mary Ann is able to return. Victoria is an hourly employee, and this resolution will allow us to have Victoria work more hours, which will help us as we finish out the year, and will also adjust her compensation slightly to a rate that more accurately reflects the work she is doing as Interim Clerk. This rate will only apply when she is wearing her Clerk hat. I want to finish by thanking Victoria for stepping up into this role and supporting the Town and Village in Mary Ann’s absence. She is doing a great job and we are lucky to have her.

Motion Carried: Unanimously

I. Resolution Adopting Local Law No. 4 Of 2018 Repealing Chapter 50 Of The Town Code And Amending Chapter 200 With Respect To Accessory Apartments

Councilmember Wilcher moved and it was seconded by Councilmember Feldman that the following resolution be approved

WHEREAS, the Town of Ossining Town Board is considering the adoption of Local Law No. 4 of 2018 (formerly Proposed Local Law No. 5 of 2018) which would repeal Chapter 50 of the Town Code and amend Chapter 200 with respect to accessory apartments (the “Proposed Action”); and

WHEREAS, 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, and also serves to an important function in providing diversity of housing in Ossining without changing the low-density, predominantly single-family character of the Town; and

WHEREAS, the Town Board has had regulations governing accessory apartments as a special permit use in its Code since 1999 and this local law is intended to, among other things, move said regulations to the Zoning chapter of the Code and allow accessory apartments in detached accessory buildings, while still requiring a special permit; and

WHEREAS, a public hearing on the proposed local law was duly noticed, opened on July 24, 2018, adjourned to and continued at many subsequent Town Board meetings, and members of the public having had the opportunity to be heard, the public hearing was closed on October 23, 2018; and

WHEREAS, the Town Board is the only involved agency, and therefore the lead agency, for the purposes of conducting the environmental review pursuant to the State Environmental Quality Review Act ("SEQRA"); and

WHEREAS, the Town Board complied with the referral and notice requirements of Section 239 of the New York State General Municipal Law; and

WHEREAS, in response to said referral the Westchester County Planning Board responded by letter dated October 12, 2018 expressing its support for allowing accessory apartments as such units expand the range of housing types available in Westchester communities and also recommended that the Town consider allowing accessory apartments as a permitted use instead of a special permit use on the grounds that it could place further administrative burden and cost on the homeowner; and

WHEREAS, said local law has been on the desks of the members of the Town Board of the Town of Ossining for at least seven (7) days, exclusive of Sunday, prior to the adoption of this resolution.

NOW, THEREFORE, BE IT RESOLVED, AS FOLLOWS:

- 1. The Town Board hereby adopts and incorporates the recitations and statements set forth above as if fully set forth and resolved herein.**
- 2. Pursuant to SEQRA, the Town Board hereby adopts the attached Negative Declaration for the reasons stated therein, thereby finding that the Proposed Action will not result in any significant adverse environmental impacts.**
- 3. The Town Board, after due deliberation, finds that it is in the best interest of the Town to adopt said local law, and the Town Board hereby adopts Local Law No. 4 of 2018, a copy of which is attached hereto and made a part of this resolution.**
- 4. To the extent required by law, the Town Board hereby overrides the recommendation of the Westchester County Planning Board to allow accessory apartments as a permitted use as opposed to a special permit use. The Town Board finds that accessory apartments have been permitted by special permit in the Town for nearly 20 years with approval from the Zoning Board of Appeals, which is generally a streamlined process that has a minimal financial burden on the applicants while allowing the Town to oversee and monitor the accessory apartments within the Town to ensure the health, safety and welfare of the public and maintain the primarily single-family character of the Town.**
- 5. The Town Clerk is directed to enter said local law in the minutes of this meeting into the local law book for the Town of Ossining; to publish said minutes in a newspaper published in the Town, if any, or in such newspaper published in the county in which such town may be located having a circulation in such town, and affidavits of said publication shall be filed with the Town Clerk; and to file a copy of said local law with the Secretary of State of New York.**

Supervisor Levenberg stated that please note, that this local law was Proposed Local Law #5 of 2018 but will be adopted as Local Law #4 of 2018, since we need to number our laws in the order in which they are adopted, not proposed. Sorry for any confusion here.

**Roll Call Vote: 5-0-0
Ayes: D'Attore, Shaw, Wilcher,
Feldman & Levenberg**

VII. CORRESPONDENCE TO BE RECEIVED AND FILED

Councilmember Wilcher moved and it was seconded by Councilmember Shaw that the following resolution be approved

Resolved, that the Town Board of the Town of Ossining hereby accepts the Town Planning Board meeting minutes dated October 17, 2018.

Motion Carried: Unanimously

VIII. MONTHLY REPORTS

Councilmember Wilcher moved and it was seconded by Councilmember Shaw that the following resolution be approved

Resolved, that the Town Board of the Town of Ossining hereby accepts the following monthly reports for the month of October 2018:

- **Town Clerk's Office**
- **Town Supervisor's Office**
- **GE Helicopter Report**
- **Town Building Department**
- **Dale Cemetery**

Motion Carried: Unanimously

IX. VISITOR RECOGNITION

X. ADJOURNMENT –EXECUTIVE SESSION-ADVICE OF COUNSEL

At 7:58 p.m., Councilmember Shaw moved and it was seconded by Councilmember Feldman to adjourn the meeting to Executive Session

Motion Carried: Unanimously

At 8:13 p.m., Councilmember Feldman moved and it was seconded by Councilmember Wilcher to leave Executive Session.

Motion Carried: Unanimously

At 8:14 p.m., Councilmember Wilcher moved and it was seconded by Councilmember Feldman to Adjourn Executive Session.

Motion Carried: Unanimously

Approved:

Interim Town Clerk Victoria Cafarelli

LOCAL LAW #4 OF THE YEAR 2018

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 No. of 2018, for the Purpose of Repealing Chapter 50, Accessory Dwelling Units in Single-Family Homes, and Amending Chapter 200, Zoning, of the Town Code with Respect to Accessory Apartments.”

Section 2: Legislative Intent

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. The Town Board believes that it is reasonable and appropriate to repeal Chapter 50, Accessory Dwelling Units in Single-Family Homes, and to amend Chapter 200, Zoning, of the Town Code with respect to accessory apartments.

Section 3: Code Amendments

1. Chapter 50, Accessory Dwelling Units in Single-Family Homes, is hereby repealed.
2. The following definitions are hereby added to Section 200-53.A in their proper alphabetical order:

ACCESSORY APARTMENT

A dwelling unit within an existing single-family home or within a detached accessory building on a single-family lot which is subordinate to a permitted principal one-family dwelling unit in terms of size, location and appearance and which provides complete housekeeping facilities for one family, including independent cooking, bathroom and sleeping facilities.

BOARDER

A person staying at a rooming house or boarding house.

3. **A new Section 200-7.D(6) shall be added and shall read as follows:**
 - (6) Accessory apartments on single-family lots, subject to §§ 200-31.2 and 200-45C of this chapter.

4. **A new Section 200-31.2 shall be added and shall read as follows:**

§ 200-31.2 Accessory apartments on single-family lots.

- **Purpose.** It is the purpose of this section to legalize and control existing accessory apartments on single-family lots and to regulate new conversions. It is also the intent of this section that neighborhoods zoned as single-family maintain their single-family character. This section will further the Town's goal of providing a diversity of housing in Ossining without changing the low-density, predominately single-family character of the Town. This section is intended to ease the financial burden of homeowners, particularly those with moderate or fixed incomes. It is the further purpose and intent of this section to provide for the health,

safety and welfare of the inhabitants of the Town of Ossining and of the occupants of accessory apartments and to ensure that said accessory apartments meet minimum health, fire and safety standards.

- **Required standards.**
 - **The Zoning Board of Appeals of the Town of Ossining may permit the construction of an accessory apartment within an existing single-family home or within a detached accessory building on a single-family lot pursuant to the following standards. It shall be unlawful to use, establish, maintain, operate, occupy, rent or lease any portion of any premises as an accessory apartment for residential occupancy in the Town of Ossining without first having obtained an accessory apartment special permit. Failure or refusal to procure an accessory apartment special permit shall be deemed a violation of this chapter.**
 - **Location.** An accessory apartment shall be located only in that portion of a building for which there has been a valid certificate of occupancy in place for at least two years prior to the application for an accessory apartment special permit or where there is proof, as determined by the Building Inspector, that said portion of the building was built prior to the requirement for a certificate of occupancy.
 - **Size of lot.** The lot on which the accessory apartment is proposed shall be no less than the size required by the zoning district in which it is located.
 - **Architectural treatment.** The architectural treatment of the structures on the lot shall be such as to portray the character of a single-family lot. Only one main entrance will be permitted on the front side of the principal building; all other entrances shall be at the side or in the rear of the building(s). In addition, no more than one meter for each utility provided to the lot (i.e., gas, water, etc.) shall be permitted. Notwithstanding the above, if an accessory apartment is located in an accessory building on the lot, said accessory apartment may have its own metering.
 - **Floor area.** The habitable floor area of the accessory apartment shall be a minimum of 300 square feet and a maximum of 800 square feet, and the area of the accessory apartment shall also not exceed 33% of the habitable floor area of the principal building on the lot.
 - **Bedrooms and occupancy.** There shall be a maximum of two bedrooms in the accessory apartment in a single-family home. An accessory apartment in a detached accessory building shall be limited to an efficiency or studio housing unit, as defined in this chapter, and shall be limited to a maximum of two occupants.
 - **Parking.** Adequate off-street parking spaces in accordance with § 200-29 of this chapter shall be provided to prevent the parking in public streets of vehicles of any persons residing in the accessory apartment.
 - **Ownership.** Either the main dwelling or the accessory apartment must be owner-occupied as the owner's primary residence. The owner shall not rent out the owner's dwelling unit ~~while on vacation~~.

- Number of accessory apartments per lot. There shall be no more than one accessory apartment nor more than a total of two dwelling units permitted per lot.
 - Permits. A building permit shall be obtained as otherwise required, and a certificate of occupancy must be issued prior to utilization of an accessory apartment. No permit shall be issued until the Building Inspector, Town Engineer and/or the Westchester County Department of Health, whichever is appropriate, has issued written approval indicating that all applicable health, fire, building and safety requirements, including those relating to adequate sewage disposal capacity, have been met.
 - Renewal permit. Prior to the issuance of any renewal permit, the Building Inspector, or his designee, shall inspect all areas of the building housing the accessory apartment to determine that there is compliance with all applicable laws, rules and regulations. No renewal permit shall be issued until the Building Inspector, or his designee, determines that there is full compliance with said laws, rules and regulations.
 - Garage space. Garage space may not be used for an accessory apartment unless the required parking on the lot can otherwise be provided.
 - Minimum term of rental. The rental term of an accessory apartment shall be for at least three months.
- Application for special permit; public hearing; term; renewal.
 - Application for a special permit for an accessory apartment shall be made to the Zoning Board of Appeals in accordance with the procedures set out in this section. The application shall consist of the following:
 - A site plan indicating existing building and lot conditions and a dimensioned floor plan of the principal dwelling, any pertinent detached accessory building, and the proposed accessory apartment.
 - A location map showing the applicant's property and adjacent property and streets, the location of existing and proposed off-street parking, water supply and sewage disposal facilities, ingress and egress to the site and such other information as may be required by the Zoning Board of Appeals to determine compliance with the provisions of this section.
 - Application fee(s) as set forth in the Schedule of Fees promulgated by the Town Board. *Editor's Note: See Ch. A203, Fees.*
 - Upon receipt of the application, the Board shall conduct at least one public hearing for every application for a special permit for an accessory apartment. The Board may, at its discretion, conduct a public hearing in connection with any renewal application. Legal notice of such hearing shall be published in the official newspaper of the Town of Ossining at least 10 days prior to the public hearing. In addition, the Town shall forward written notice of the date, time and place of the hearing and a brief statement describing the application to every owner of property within a radius of 500 feet from the property lines of the lot which is the subject of the

application at least 10 ~~not less than 15 nor more than 25~~ days prior to the date of such hearing.

- The term of an initial permit shall be one year. Renewals shall be for three years. Applications for the renewal of special permits shall be made at least 90 days prior to expiration of the permit being renewed.
- If any of the provisions set forth in this chapter are not met, and/or if ownership changes, the special permit shall be null and void.
- **Additional standards of Zoning Board of Appeals.**
 - When considering an application for a special permit for an accessory apartment, the Board shall apply the following standards, in addition to those general standards found in this chapter.
 - The use will not restrict the use of adjacent properties.
 - The use and the traffic generated by the use will not adversely affect the character of the neighborhood.
 - The use will not endanger the health, safety or general welfare of the neighborhood or the community.
 - It is the Town's intent that neighborhoods zoned as single-family retain their single-family character. The Town recognizes that there may come a time when the number of accessory apartments in a single-family zoned neighborhood will adversely affect the character thereof. The Zoning Board of Appeals shall therefore deny a special permit for an accessory apartment should it find that the number of accessory apartments in a neighborhood, including the one proposed, will adversely affect the character of a single-family zoned neighborhood. This criteria for denial shall include, but not be limited to the circumstance where three other such permits or approvals for accessory apartments have been issued within a radius of 500 feet of the property lines of the lot containing the proposed accessory apartment.
 - The standards and provisions of all special uses as provided for in § 200- 45C of the Code of the Town of Ossining shall be applicable to this special permit procedure to the extent that the same are not inconsistent therewith. Further, if any of the provisions of this section are found to be in conflict with § 200-45C, the provisions of this section shall be controlling.
 - As a condition to the issuance of an accessory apartment permit, the Zoning Board of Appeals may impose such conditions as deemed proper and necessary upon the accessory apartment, the principal single-family dwelling, any pertinent detached accessory building, and/or the property to preserve the character of the neighborhood and/or the health, safety and welfare of neighboring residents.
- **Reinspection.** Accessory apartments which have been approved by the Zoning Board of Appeals shall be reinspected by the Building Inspector one year after issuance of the permit and every year thereafter. In the event the inspection discloses any noncompliance with or violations of the terms of this section, any condition of the permit, any state or local law, regulation or ordinance or, in the discretion of the Building Inspector, any condition which does or could pose a hazard to the health, welfare and safety of either the occupant(s) of the accessory apartment, the main building or any other members of the public, the Building Inspector

shall report such findings in writing to the Zoning Board of Appeals. The Zoning Board of Appeals shall thereupon schedule a public hearing with due notice to determine whether the permit should be revoked based upon such noncompliance, violations or other condition(s) noted by the Building Inspector. Refusal to allow reinspection by the Building Inspector shall be a basis for revocation of the permit by the Zoning Board of Appeals after a public hearing.

- **Sale of dwelling unit; renewal of special permit.**

In the event that a lot with a valid special permit for an accessory apartment is sold, the special permit shall lapse unless, within 90 days after the transfer of title, the new owner shall apply for renewal of the previous special permit under this section. If such application is timely made, the new owner shall not be deemed in violation of this section so long as the renewal application is pursued with due diligence. If such renewal application is granted, the new special permit shall run three years from the date of transfer of title. If, after transfer of title, a renewal application shall not be made within 90 days, any application thereafter made shall be treated as an initial application and any permit issued pursuant to said application shall be for a period of one year.

- **Boarders prohibited. No boarders shall be permitted in either the principal dwelling unit or the accessory apartment. A dwelling may not receive an accessory apartment special permit for a tourist home, rooming house or boarding house.**
- **Special permit required for pre-existing units. All owners of accessory apartments who have not previously obtained special permits for such accessory apartments located on their lots shall apply to the Zoning Board of Appeals for a special permit within six months following the effective date of this section. If application is so made within said six-month period, the owner of the accessory apartment shall not be deemed in violation of this section. If application to the Zoning Board of Appeals is not made within said six-month period, the owner of the accessory apartment**

shall be deemed in violation of this chapter and shall be subject to the penalties provided herein.

- I. Penalties for offenses. Any owner or builder, or any agent of either of them, who fails to secure a special permit for an accessory apartment, who allows occupancy of an accessory apartment, or who constructs or causes to be constructed an accessory apartment in violation of the provisions of this chapter shall be subject to § 200-43 of this chapter.

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: Numbering for Codification

It is the intention of the Town of Ossining 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 sub-sections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 6: 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 application to other persons or circumstances. It is hereby declared to be the legislative intent of the Town Board of the Town of Ossining 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 thereof is held inapplicable had been specifically exempt therefrom.

Section 7: Effective Date

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