

## *Local Law Filing*

Town of Oyster Bay

Local Law No. 1 of the year 2024

A local law entitled "A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF OYSTER BAY, NEW YORK, CHAPTER 93 – BUILDING CONSTRUCTION, TO ADD NEW SECTION 93-16.4 – CONSTRUCTION SITE SAFETY TRAINING, AND AMEND EXISTING SECTION 93-16.4 AND RENUMBER IT AS SECTION 93-16.5"

Be it enacted by the Town Board of the

Town of Oyster Bay as follows:

**Section 1.** Amend CHAPTER 93– BUILDING CONSTRUCTION, of the Code of the Town of Oyster Bay, so as to add new Section 93-16.4, and to amend existing Section 93-16.4 and renumber it as Section 93-16.5, to read as follows:

### **§93-16-4 – CONSTRUCTION SITE SAFETY TRAINING**

#### **A. Purpose**

The provisions of this section are intended to promote the safety of Minor and Major Construction Projects, as herein defined, within the Town. The provisions of this section are designed to provide that workers employed or otherwise engaged at such construction sites have received adequate safety training; that contractors performing construction work have essential safety training and that contractors performing construction work have essential safety training systems to prevent injuries and protect workers who are injured.

**B. Definitions.** As used in this Chapter, the following terms shall have the meanings indicated:

**Applicant:** The person who has applied for a building permit under the Town Code to perform a Minor or Major Construction Project as defined herein.

**Construction Site:** A parcel or parcels of land situated in a zoning classification other than a Single-Family Residential District, where a permit has been issued by the Town for the construction, demolition or alteration of buildings and structures or land use and/or for all alterations or changes in use thereto. The size of a construction site will be determined by the footprint of all structures and all site improvements, to be constructed, demolished or altered in the most recently approved site plan.

**Construction Worker:** Any person engaged in the construction, alteration, demolition, repair and/or any types of construction work done on a particular construction site covered by this Chapter. For purposes of this law “Construction Worker” excludes administrative, professional or executive employees, property owner(s), property manager(s), tenant(s), or any other Person not actively engaged in the construction, alteration, repair and/or any types of construction work done on a particular construction site covered by this Chapter.

**Contractor:** Any person contracted or subcontracted to perform work covered by this Chapter for or on behalf of any other person.

**Major Construction Project:** A construction site, other than one owned, operated, maintained, or otherwise controlled by the Town of Oyster Bay, with an area greater than 75,000 square feet, which involves the construction, demolition, or alteration of a structure or building.

**Minor Construction Project:** A construction site, other than one owned, operated, maintained, or otherwise controlled by the Town of Oyster Bay, with an area greater than 35,000 square feet and less than or equal to 75,000 square feet, which involves the construction, demolition, or alteration of a structure or building.

**OSHA:** The United States Department of Labor Occupational Safety and Health Administration.

**OSHA 30-hour class:** A class that includes thirty (30) or more hours in construction industry safety and health that is intended for workers and satisfies the following conditions:

- i. Such class is (a) approved by OSHA and conducted in accordance with the OSHA outreach training program or (b) an equivalent thirty (30) or more hour construction industry safety and health class approved by OSHA, the United States Department of Labor, or the New York State Department of Labor and that is accepted by the Commissioner of the Town’s Department of Planning and Development.
- ii. Such class consists of in-person training, actively proctored online training or, if such training is conducted before the effective date of this section, online training.

**OSHA Site Safety Supervisor Class:** A class or program that

- i. Is an apprenticeship program in a construction trade registered with the New York State Department of Labor; or
- ii. Is a sixty-two (62) hour Site Safety Supervisor Training program approved by the New York City Department of Buildings in accordance with Section 3302.1 of the New York City Building Code; or
- iii. Is no less than forty (40) hours of construction industry safety and health training consisting of (a) the completion of an OSHA 30-hour class approved by OSHA, (b) the completion of no less than an eight-hour site safety manager refresher course that provides training necessary to maintain a site safety supervisor card required by Section 3302.1 of the New York City Building Code, and (c) the completion of no less than a two-hour drug and alcohol awareness course that provides training necessary to maintain a site safety supervisor card required by

Section 3302.1 of the New York City Building Code and is accepted by the Commissioner of the Department of Planning and Development.

**Permit Holder:** The person to whom a building permit has been issued or for whom a building permit has been applied

**Person:** An individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

**Single Family Residential District:** Any parcel zoned R1-6, R1-7, R1-10/OHG, R1-10, R1-15, R1-20, R1-1A, R1-2A or R1-5A.

**Site Safety Designee:** The Site Safety Designee must have completed an OSHA Site Safety Supervisor class. On a Major Construction Project, the Site Safety Designee shall use reasonable prudence to ensure that safety is maintained as job conditions dictate and shall complete any tasks required of a Site Safety Designee under this Chapter.

**Site Safety Log:** Each Permit Holder shall ensure that each Person employing or engaging Construction Workers on a Minor or Major Construction Site shall maintain a log, roster, sign-in sheet, or similar system of tracking satisfactory to the Commissioner of the Town's Department of Planning and Development that (i) identifies all Construction Workers on a Minor or Major Construction Site; and (ii) that all Construction Workers on a Minor or Major Construction Site have completed the OSHA 30-hour class required by this Section.

### C. Safety Training Required.

1. In addition to any other applicable town, county, state or federal law or rule, each applicant and permit holder:
  - a. At a Minor Construction Site, shall be responsible for ensuring that each construction or demolition worker employed or otherwise engaged at such site by the Permit Holder or any person performing work for or on behalf of such Permit Holder at such site has successfully completed and maintains a current OSHA 30-hour class certificate during the period the Construction Worker is engaged to perform work on the Minor Construction Site.
  - b. At a Major Construction Site, shall be responsible for ensuring that a foreman or designated employee or individual otherwise engaged at such site by the Permit Holder or any person performing work for or on behalf of such Permit Holder is designated as a Site Safety Designee. The Site Safety Designee shall be tasked with ensuring that each Construction Worker employed or otherwise engaged at such site by the Permit Holder or any person performing work for or on behalf of such Permit Holder at the Construction Site is in compliance with Section 93-16.4(C)(1)(a) and shall report violations of this section to the Department of Planning and Development.
2. The Applicant, Permit Holder or any person performing such work on behalf of the Permit Holder shall certify to the Department of Planning and Development, in a form and manner established by the Department of Planning and Development, that the requirements of Section 93-16.4(C)(1)(a) and/or Section 93-16.4(C)(1)(b) have been met.

3. The Applicant, Permit Holder or any person performing such work on behalf of the Permit Holder shall certify that all New York State and OSHA safety requirements and workers compensation and insurance requirements have been met.
4. The Permit Holder shall be responsible for ensuring that each Person employing or engaging Construction Workers on a Minor or Major Construction Project maintains a Site Safety Log. Each Site Safety Log shall identify each Construction Worker employed or engaged by such Person and include, for each such worker, proof of compliance with Section 93-16.4(C)(1)(a) and Section 93-16.4(C)(1)(b), as applicable. Such Site Safety Logs shall be made available to the Department of Planning and Development upon request and shall be submitted to the Department of Planning and Development as a prerequisite to the issuance of a Certificate of Occupancy, Certificate of Completion and/or Certificate of Approval.

**D. Penalties**

1. a. Any violation of this section on a Minor or Major Construction Site shall be an offense punishable by a fine of not less than \$1,000 nor more than \$10,000. Each day the violation occurs shall subject the Person in violation of this section to a separate fine under this subsection and the Permit Holder shall be jointly and severally liable for such fine(s).

b. Reduction in fees or penalties for sponsoring site safety training. The Commissioner of the Town's Department of Planning and Development shall establish by rule a program for establishing approved third-party safety persons or entities that can provide certifications set forth in this section and for reducing the amount of any fine to be imposed upon a person or any civil penalty to be imposed upon a person for a violation where one or more of the following conditions is satisfied: 1. Such person demonstrates, in a form and manner established by the Commissioner of the Town's Department of Planning and Development, that such person has paid, either directly or indirectly, for the cost of one or more workers who do not have training required to comply with this Chapter to obtain such training or has otherwise arranged for such workers to receive such training at no cost to such workers. 2. The fee or penalty to be imposed upon such person relates to a building site for which the owner of such site, or a person acting on such owner's behalf, demonstrates, in a form and manner established by the Commissioner of the Town's Department of Planning and Development, that such owner or such person acting on such owner's behalf has paid, either directly or indirectly, for the costs of one or more workers who do not have training required to comply with this Chapter to obtain such training or has otherwise arranged for such workers to receive such training at no cost to such workers, Compliance with subsections b(1) and b(2) of this section may be satisfactorily satisfied by the filing of a certification, in form approved by rule of the Commissioner of the Town's Department of Planning and Development, from a third party safety organization that the remedial training required by this section has been completed.

2. For a second or subsequent offense, committed on a Minor or Major Construction Site where the Applicant or Permit Holder has been fined under section D(1) of this Section, or received a reduction in fines or penalties under section D(1) of this section within a period of five years from issuance of a final penalty relating to a prior offense of this section or received a reduction in fines or penalties under section D(1) of this section, such violation shall be punishable by a fine of not less than \$3,000 nor more than \$20,000. Each day

3. Permits issued to permit holders found to be in violation of this section may be revoked by the Department of Planning and Development upon discovery of such violation.

4. The Department of Planning and Development shall be authorized to issue stop orders for violations of this section. Upon the issuance of a stop order, the owner of the affected property, the permit holder and any other person or contractor performing, taking part in or assisting in the work shall suspend all building activities until the stop order has been rescinded.

**§93-16-5 – DETERMINATION BY COMMISSIONER**

A. The determination of compliance with this Section 93-16.1 through Section 93-16.4 of this Chapter shall be made and certified by the Commissioner of the Department of Planning and Development. An aggrieved party may appeal such determination in an Article 78 proceeding to the Supreme Court, Nassau County, filed within 30 days of the filing of the determination by the Commissioner with the Town Clerk or the mailing of such determination to the applicant or permit holder, whichever is later.

B. It is the intent of the Town Board to exercise its municipal home rule powers to supersede any inconsistent provisions of state law, with specific reference to the time periods to commence legal action set forth in CPLR § 217, Subdivision 1, or any other inconsistent provision of state law with respect to the subject matter of this code provision.

**Section 2. SEQR Determination.** It is hereby determined pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. Section 101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., that the adoption of this local law is a “Type II” Action within the meaning of Section 617.5 (c)(20) of 6 N.Y.C.R.R., pertaining to “routine or continuing agency administration and management, not including new programs or major reordering of priorities that may affect the environment” and, accordingly, is of a class of actions which do not have a significant effect on the environment and no further review is required.

**Section 3. Severability.** If any section, subdivision or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by a court of competent jurisdiction, such judgment shall be confined in its operation to the section, subdivision or provision of or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law, or the application thereof to other persons or circumstances.

**Section 4. Effective Date.** This Local Law shall take effect immediately upon its adoption and filing with the Office of the Secretary of State.

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2024 of the Town of Oyster Bay was duly passed by the Town Board on February 27, 2024 in accordance with the applicable provisions of law.

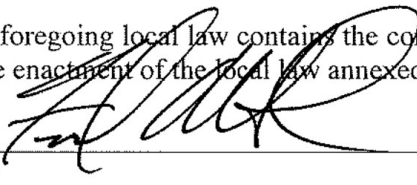
  
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Clerk of the Town of Oyster Bay

(Seal)

Date: February 27, 2024

STATE OF NEW YORK  
COUNTY OF NASSAU

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
\_\_\_\_\_  
Signature

\_\_\_\_\_  
Town Attorney

\_\_\_\_\_  
Title

Town of Oyster Bay

Date: February 27 2024