

## ***Local Law Filing***

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### **Town of Olive Local Law No. 2 of 2024**

#### **A Local Law Amending the Town of Olive Zoning Law Chapter 155.**

**Be it Enacted by the Town Board of the Town of Olive, Ulster County, New York, as follows:**

#### **I. Title**

This Local Law shall be known as the “A Local Law Amending the Town of Olive Zoning Law Chapter 155.” This law may be known as the “Updated Zoning Law.”

#### **II. Enactment**

This Zoning Law is enacted pursuant to the authority and power granted by Articles 2 and 3 of the New York State Municipal Home Rule Law, by Article 2 of the New York State Statute of Local Governments, and by Article 16, Chapter 62, of the Consolidated Laws of the State of New York known as the New York State Town Law.

#### **III. Purpose, Background and Findings**

In its ongoing efforts to ensure that land use regulations in the Town of Olive are consistent with the values and goals of the Town to protect the environment, its rural community character, and quality of life for its residents, and further the general health, safety and welfare of its population, the purpose of this Local Law is to amend the Town’s zoning so that it is consistent with an updated Town of Olive Subdivision Law (Chapter 133) to ensure that the Town’s land use regulations meets the needs of the community.

The Town Board has charged the Planning Board with reviewing and updating the zoning law to ensure consistency with the recently updated Subdivision of Land Regulations (Chapter 133). Upon completion of their review, and with assistance from a consultant, the Planning Board submitted such recommendations to update the Zoning Law (Chapter 155) for consideration by the Town Board. The Subdivision Law was updated to ensure consistency with the environment and community character goals, to address and improve definitions and sections needing clarification, to update subdivision review and approval procedures to be consistent with New York State Town Laws, and to create land use regulations and development standards for residential uses that are consistent with the environment. Among other changes, the updated Subdivision of Land Regulations include development standards and procedures for use of Conservation Subdivisions in the Town. As such, the zoning law was subsequently amended to ensure for consistency between it and the Subdivision of Land regulations.

**IV. Amendments (new language is underlined, and deleted language is crossed out)**

- A. Section 155-3 is amended to now read: Said zoning districts are bounded and defined as shown on a map entitled “Town of Olive Zoning Map” as adopted by the Town Board and certified by the Town Clerk, which map accompanies this text and, with all explanatory matter thereon, is thereby made a part of this chapter.
- B. Section 155-7 (B) is amended to now read: Yard and open space for every building. No yard or other open space provided about any building, for the purpose of complying with the provisions of these regulations, shall be included as any part of the yard or open space for any other buildings; no yard or any other open space on one lot shall be considered as a yard or open space for a building on any other lot unless it is a conservation subdivision pursuant to §155-8, New York State Town Law 278, and the Town of Olive Subdivision Regulations.
- C. Section 155-7 (C) is amended to now read: Subdivision of a lot with a building. Where a lot is hereafter formed from the part of a lot or parcel already occupied by a building, such separation shall be effected in such manner that each lot thus created conforms to all of the requirements of this chapter. The parcel already occupied by a building shall be considered one lot and counted towards the total number of lots used to determine a major or minor subdivision.
- D. Section 155-7 (G) is amended to now read: Except in an approved conservation subdivision, no zoning permit shall be issued for any structure unless the lot upon which that structure is to be built has a frontage of at least 25 feet on a street or highway, as defined by the New York State Town Law, Article 16, § 280-a, in the Consolidated Laws of New York, which street or highway shall have been suitably improved, or a bond posted therefor, to the satisfaction of the Town Board or Planning Board, as provided in said § 280-a. Access via easement or right-of-way shall be as required by Subdivision 4 of § 280-a. Reference Olive Code Appendices A159 and A160. [Amended 7-13-2021 by L.L. No. 2-2021]
- E. Section 155-7 (H) is amended to now read: New buildings on lots less than the minimum area. A zoning permit may be issued for the erection of a building or structure upon a lot or parcel which has an area less than that required for the district in which such lot or parcel lies, providing that said lot or parcel is within a conservation subdivision or has met the minimum area requirements of the Town of Olive ~~Interim Zoning Law Ordinance~~ if said lot or parcel was created during the effective period of said Town of Olive Law ~~Interim Ordinance~~, further providing that all yard setbacks and other requirements which are in effect at the time of the obtaining of the zoning permit are complied with insofar as such is feasible, and further providing that the owner of such lot or parcel does not own other lots or parcels contiguous thereto. If this be the case, such other lots or parcels, or so much thereof as might be necessary, shall be combined with the original lot or parcel to make a single conforming lot or parcel, whereupon a permit may be issued, but only for such combined lots or parcels, even though their total be less in area than required by this chapter for the district in which they lie.

F. Section 155-8 (Variations in subdivision design) is amended to now read:

For the purposes of this chapter and for the purpose of obtaining good health and sanitary conditions, environmental and economic health, to preserve and/or conserve the Town of Olive rural character, historic, cultural, natural, and environmental resources, and to optimize the use of public resources, facilities and utilities, the Planning Board shall be guided by and is hereby authorized to review and act upon all subdivisions in accordance with Town of Olive Town Code Chapter 133 entitled "Subdivision of Land," and approve an average density subdivision and a conservation subdivision when proposed or required. ~~for natural resource preservation and conservation and to minimize the construction and maintenance costs of community facilities and utilities, all directed towards the objective of fostering and obtaining land development of good quality and design at reasonable economic cost, the Town Board hereby resolves that the Planning Board shall be guided by and is hereby authorized to review and act upon all subdivisions in accordance with the following paragraphs.~~ In all cases, the Planning Board shall have full power of subdivision approval, approval with conditions, or denial, as authorized by law.

- A. Average density subdivisions. Simultaneously with the approval of a subdivision plat ~~and pursuant to § 278 of the Town Law, at the request of the applicant,~~ the Planning Board is authorized to modify the zoning regulations with respect to lot area and dimensions, provided that the average size of all lots shown on the subdivision plat shall be equal to or greater than the permitted minimum lot area in such district, and that there shall not be a greater average density of housing units population, or cover of the land with buildings, than is permitted in such district, ~~and further provided that no lot shall have less than the minimum area and dimensions required for lots in the least restrictive residential district.~~ For the purposes of this section, "average density" shall be determined by the number of single-family residences which could be built under the zoning district standards in full conformity with the town's subdivision regulations, and the applicant may be required to furnish a sample layout of single-family homes to determine this number.
- B. Conservation subdivisions. Simultaneously with the approval of a subdivision plat and pursuant to § 278 of the New York State Town Law and the Town of Olive Subdivision Regulations (Chapter 133 of the Olive Town Code), the Planning Board is authorized to modify the zoning regulations with respect to lot area and dimensions and approve a conservation subdivision. In such approval, there shall not be a greater average density of housing units, or cover of the land with buildings, than is permitted in such district. Density shall be determined by the number of single-family residences which could be built under the zoning district standards in full conformity with the town's subdivision regulations. The applicant may be required to furnish a sample layout of single-family homes to determine this number (a yield plan).
- C. Record of zoning modifications. Each approved modification of the town's subdivision and zoning regulations, as may be approved in this section, shall be noted specifically on the subdivision plat, which plat may be filed in the office of the

County Clerk as required by law. Upon the filing of said plat in the office of the County Clerk, a copy of the plat shall be filed with the Town Clerk and approved modifications shall be recorded as part of this chapter.

G. Article IX (Definitions), Section 155-43 (B) is amended to read as follows:

Add the Following Definition:

AVERAGE DENSITY SUBDIVISION

A minor or major subdivision where individual lots to be created may have differing lot sizes provided the average size of all proposed lots created from subdividing the parcel equals the minimum lot size required for the district.

CONSERVATION SUBDIVISION

A residential subdivision where the same number of dwelling units that would result on a given parcel under a conventional subdivision plan are allowed to be placed on the parcel in a flexible layout, where lot sizes, road frontages, setbacks, and other bulk dimensions are allowed to be relaxed in order to promote at least fifty percent (50%) of the land is being left in its natural open space condition in perpetuity. Conservation subdivision development results in flexible design options to promote the most appropriate use of land, to facilitate the efficient and economical provisions of roads and utilities without overbuilding, and to preserve the natural and scenic qualities of open lands.

F. A new Article XII shall be added to read as follows:

Article XII

Interpretation, Non-Interference and Precedence, Separate Validity, Supersession.

§ 155-46.1 **Legislative Intent.**

In their interpretation and application, the provisions of this Law shall be held to be minimum requirements adopted for the promotion of the public health, safety and general welfare.

§ 155-46.2 **Non-Interference and Precedence.**

This Law shall not interfere with, abrogate, or annul any ordinance or any rule, regulation, or permit previously or here-after enacted or adopted, or issued pursuant to law, provided that, unless specifically excepted, whenever the requirements of this law are inconsistent with the requirements of any other lawfully adopted rule, regulation, ordinance or local law, the more restrictive provisions that impose higher standards shall govern.

§ 155-46.3 **Separate Validity.**

If any Article, subsection, paragraph, clause, or other provision of this Law shall be held

invalid, the invalidity of such section, subsection, paragraph, clause or other provision shall not affect any of the other provisions of this Law.

**§ 155-46.4 Supersession of Inconsistent Laws.**

The Town of Olive Town Board hereby declares its legislative intent to supersede any provision of any local law, rule or regulation, or provision of the New York State Town Law inconsistent with this Zoning Law. The New York State Town Law provisions intended to be superseded include all of Article 16 of the New York State Town Law and any other provision of the law that the Town may supersede pursuant to the New York State Municipal Home Rule Law and the New York State Constitution. The courts are directed to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supersession. The Town Board hereby declares that it would have enacted this Zoning Law and superseded such inconsistent provision had it been apparent.

**§ 155-46.5 Effective Date.**

This law shall become effective upon filing with the New York State Department of State.

**Attachments:**

[Attachment 1 - Schedule of Residence and Business and Industry District Standards](#)

**V. Severability**

If any Article, subsection, paragraph, clause, or other provision of this Law shall be held invalid, the invalidity of such section, subsection, paragraph, clause or other provision shall not affect any of the other provisions of this Law.

**VI. Supersession**

This Local Law is intended to supersede any provisions of the Town Law, the laws of the Town of Olive and the New York State General Municipal Law which are inconsistent with the provisions of this Local Law.

**VII. Effective Date**

This law shall become effective upon filing with the New York State Department of State.