

Local Law 3-2024

A local law amending chapters 122 (Excavations), 233 (Subdivision of Land) and 270 (Zoning) of the Village of Ossining Code.

BE IT ENACTED by the Board of Trustees of the Village of Ossining as follows:

Section 1. Chapter 122 (Excavations) is amended with new matter **underlined** and deleted matter in **[brackets]**.

§ 122-1 Purpose.

The Village Board of Trustees hereby determines that the excessive removal or deposit of fill on private property in the Village as well as the removal of trees, **through proper permitting as outlined in section 248-7,** has resulted in increased surface drainage and increased soil erosion, thereby impairing the benefits of occupancy of property and impairing the stability of value of both improved and unimproved real property with attendant deterioration of conditions affecting the health, safety and general welfare of the inhabitants of the Village.

§ 122-2 [Construal] Definitions.

Fill- Sand, gravel, earth or other materials of any composition placed or deposited by humans.

[Nothing contained in this chapter shall prevent the Village Building Inspector from approving any application for the removal or deposit of soil, sand or stone from any property where the total amount of soil, sand or stone does not exceed five cubic yards in quantity and where, in his or her opinion, the removal of five yards or less is necessary to improve the property and the applicant agrees to restore the property upon completion of the work.]

§ 122-3 Soil removal and filling.

- A. Permit required; exception. It shall be unlawful for any person to excavate and remove [soil or stone] **fill** or to deposit fill [of any kind] upon any privately-owned property in the Village without having first obtained a permit from the Building Inspector for such work. This prohibition shall not apply **to the following:**

(1) [where] Where excavation or the deposit of fill is necessary and incidental to the construction of a building, wall, driveway or structure where a building permit has been issued for such work.

(2) For the removal or deposit of fill from any property where the total amount of fill does not exceed five cubic yards in quantity and where, in the Building Inspector's opinion, the removal or deposit of five cubic yards or less is necessary to improve the property and the applicant agrees to restore the property upon completion of the work.

- B. Application; contents. Every application for a permit required by this section shall be in such form as determined by the Building Inspector but shall contain a sketch map sufficient to identify the property, and shall further indicate the present grade, the change proposed and the grade after the work has been completed and shall show the approximate grades of

all adjacent properties for an area large enough so as to reasonably determine the effect of such changes in grade upon these areas. **The sketch map shall include the location of any wetlands, watercourses, water bodies or buffer areas as that information will assist the Building Inspector to determine if a referral to the wetlands consultant is needed.**

[C. Referral of application to Planning Board. Every application for a permit required by this section shall be referred to the Planning Board of the Village for approval. The Planning Board shall approve such applications if, in the opinion of such Board, the change of grade will not create excessive drainage or erosion conditions and will not impair the values of adjoining parcels.]

[D] **C.** Issuance; conditions. Any permit required by this section issued by the [Planning Board of the Village] **Village Building Inspector** shall, where applicable, provide that:

- (1) Adequate barricades will be erected and maintained and adequate provision made for the prevention of flying dust;
- (2) Any excavation made upon property above the level of an abutting highway shall be so made that neither the excavation nor any deposit of topsoil, earth, sand, gravel, rock or other substance removed from the excavation will interfere with any natural watercourses on or the natural drainage of the property and at the termination of the permit;
- (3) The premises shall be rough graded in such a manner that the natural drainage shall be fully restored;
- (4) Any excavation upon any property at or below the level of the abutting highway shall be promptly refilled to the natural grade of the property with clean, nonburnable fill containing no garbage, refuse, offal or any deleterious or unwholesome matter, and dust down or its equivalent shall be spread to prevent dust from flying;
- (5) In the case of topsoil removal there shall be left at least four inches of topsoil upon the surface from which topsoil is removed and the area from which the topsoil is taken shall be harrowed and reseeded with rye or other fast-growing vegetation;
- (6) There shall be filed a bond in such amount as may be determined by the [Planning Board] **Village Building Inspector** and approved by the Corporation Counsel or cash to ensure the proper and faithful completion of the work in accordance with the terms of the permit issued and which bond shall further indemnify the Village for any damage to Village property.

(7) Excavation and/or depositing fill on any village-owned property is prohibited.

§ 122-4 Fees.

[Amended 8-3-1999 by L.L. No. 2-1999]

The Building Inspector of the Village shall charge and collect for the permits required by this article, [which are referred to the Planning Board,] a fee set from time to time by resolution of the Village Board of Trustees.

§ 122-5 Expiration.

Permits issued pursuant to the provisions of this article shall expire one year from the date of their issuance [unless extended by resolution of the Planning Board of the Village].

Section 2. Chapter 233 (Subdivision of Land) is amended with new matter **underlined** and deleted matter in **[brackets]**.

§ 233-3 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

COMPREHENSIVE PLAN

A plan for the future growth, protection, and development of the Village of Ossining, affording adequate facilities for housing, transportation, comfort, convenience, public health, safety and general welfare for its population.

[Amended 10-6-2009 by L.L. No. 4-2009]

CROSSWALK OR WALKWAY

A right-of-way, dedicated to public use, to facilitate pedestrian access through a subdivision.

CUL-DE-SAC

A short dead-end street terminating in a vehicular turnaround area.

EASEMENT

A restriction established in a real estate deed to permit the use of land by the public, a corporation or particular persons for specified uses.

FINAL PLAT

A drawing prepared in a manner prescribed by local regulation that shows a proposed subdivision, containing in such additional detail all information required to be shown on a preliminary plat and the modifications, if any, required by the Planning Board at the time of approval of the preliminary plat if such preliminary plat has been so approved.

[Added 10-6-2009 by L.L. No. 4-2009]

LOT

A portion or parcel of land considered as a unit.

[Amended 10-6-2009 by L.L. No. 4-2009]

MASTER PLAN

A plan for the future growth, protection, and development of the Village of Ossining, affording adequate facilities for housing, transportation, comfort, convenience, public health, safety and general welfare for its population.

PRELIMINARY PLAT

A drawing prepared in a manner prescribed in this chapter showing the layout of a proposed subdivision, including, but not restricted to, road and lot layout and approximate dimensions, key plan, topography and drainage, all proposed facilities unsized, including preliminary plans and profiles, at suitable scale and in such detail as local regulation may require.

[Added 10-6-2009 by L.L. No. 4-2009]

SUBDIVISION

The division of land of real property into two or more lots, plots, blocks or sites, with or without streets or highways, for the purpose of offering such lots, plots, blocks, or sites for sale, transfer of ownership, or development. The term "subdivision" may include any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved and filed in the office of the county clerk or register of the county in which such plat is located **excluding lot mergers which may be undertaken administratively.**

[Amended 10-6-2009 by L.L. No. 4-2009]

VILLAGE ENGINEER

The official engineer of the Village of Ossining.

§ 233-11 **Filing of decision; expiration of approval.**

[Amended 10-6-2009 by L.L. No. 4-2009]

[Within five business days from] **From** the date of the adoption of the resolution stating the decision of the Board of the final plat, the Chairman or other duly authorized member of the Planning Board shall cause a copy of such resolution to be filed in the office of the Village Clerk. Planning Board approval of a final plat shall expire [90] **180** days after the date of the Planning Board resolution authorizing the Chairman to sign the drawings, unless the subdivider has fulfilled the requirements of § 233-[10P] **10Q and the resolution.**

- A. [Upon application by the subdivider the Planning Board may grant up to two ninety-day extensions of the date of the original approval; provided, however, that the plat shall be revised according to any change in regulations or ordinance applicable to the plat which may have occurred subsequent to the first resolution.] **The Planning Board may extend for periods of 90 days each the time in which a conditionally approved plat must be submitted for signature if, in the opinion of the Planning Board, such extension is warranted by the particular circumstances.**
- B. Expiration of an approval shall mean that any further action will require a new filing fee as well as a review of all previous findings.

Section 3. Chapter 270 (Zoning) is amended with new matter **underlined** and deleted matter in [brackets].

§ 270-1 **Purposes.**

[There is hereby established a new comprehensive zoning plan for the] **The** Village of Ossining **has adopted this Chapter as**, which plan is] set forth in the text and map that constitute this chapter[. Said plan is adopted] for the purposes set forth in Article **VII** of the **New York State** Village Law which, in the interest of the protection and promotion of the public health, safety and welfare, shall be deemed to specifically include the following, among others:

- A. The facilitation of the efficient and adequate provision of public facilities and services;
- B. The assurance of adequate sites for residence, industry and commerce;
- C. The provisions of privacy for families;
- D. The prevention and reduction of traffic congestion, so as to promote efficient and safe circulation of vehicles and pedestrians;
- E. The maximum protection of residential areas;
- F. The gradual elimination of nonconforming uses;
- G. The enhancement of the appearance of the Village of Ossining as a whole;
- H. The encouragement of flexibility in the design and development of land in such a way as to promote the most appropriate use of lands, to facilitate the adequate and economical provision of streets and utilities and to preserve the natural and scenic qualities of open lands; and
- I. The protection of the environment of the Village as a whole.

§ 270-5 **List of districts.**

The Village of Ossining is hereby divided into the classes of districts listed below:

Residential Districts

S-125, Single-Family Residence Districts

S-100,

S-75

and S-

50

T Two-Family Residence District

MF-1 Multifamily Residence Districts

and

MF-2

PRD Planned Residence District

Business/ Mixed-Use Districts

PC Planned Center District

NC-1 Neighborhood Center Districts
and
NC-2

VC Village Center District

GB General Business District

P-O Professional Office District

O-R Office-Research District

CDD Conservation Development District

SP-N Station Plaza North District

SP-S Station Plaza South District

RDD Riverfront Development District

PW Planned Waterfront District

PW-a Northern Waterfront Subdistrict

PW-b Central Waterfront — Transit-Oriented
Subdistrict

PW-c Central Waterfront — Hillside Subdistrict

IR Institutional/Redevelopment District

PWRD Planned Waterfront and Railway Development
District (overlay)

HADD Historical and Architectural Design Districts and

Historic Landmarks (overlay)

DO Downtown Overlay District

CA Croton Avenue Overlay District

§ 270-7 District boundaries.

In determining the boundaries of districts shown on the map, the following rules shall apply:

- A. Where district boundaries are indicated as approximately following the center lines of streets, highways, waterways or railroad rights-of-way or such lines extended, such center lines shall be construed to be such boundaries.
- B. Where such boundaries are indicated as approximately following the property lines of parks or other publicly owned lands, such lines shall be construed to be such boundaries.
- C. [In all cases where a district boundary line is located not farther than 15 feet away from a lot line of record, such boundary line shall be construed to coincide with such lot line.] **In all other cases where a district boundary divides a lot in one ownership and more than 50% of the area of such lot lies in the less restricted district, the regulations prescribed by this chapter for the less restricted district shall apply to such portion of the more restricted district which lies within 30 feet of such district boundary. For purposes of this section, the more restrictive zoning district shall be deemed the zoning district which pursuant to this chapter prohibits the use intended to be made of the lot or requires more stringent standards for coverage, set-backs, screening, landscaping and other requirements.**
- D. In all cases where a district boundary line is located not farther than 15 feet from a lot line of record, such boundary line shall be construed to coincide with such lot line.**

[D] **E.** In all other cases where dimensions are not shown on the map, the location of boundaries shown on the map shall be determined by the Building Inspector.

§ 270-39 Nonconforming uses.

- A. Repairs, maintenance and incidental alterations. Upon the issuance of a building permit, nonstructural incidental alterations, as well as repairs to and maintenance of both structural and nonstructural parts, may be made to any portion of a building or structure occupied, in whole or in part, by a nonconforming use.
- B. Structural alterations.
 - (1) No alterations involving structural integrity shall be made to or in a building or structure occupied, in whole or in part, by a nonconforming use, except when, upon the issuance of a building permit, such alterations are made:
 - (a) In order to accommodate a conforming use; or

- (b) Wholly within the interior of the building or structure so that the alteration is not evident from the exterior of the building or structure, and so long as the alteration does not result in an enlargement, extension or increase in intensity prohibited pursuant to this article; or
 - (c) In the course of an enlargement or extension permitted under the provisions of this article; or
 - (d) In the course of a reconstruction or restoration permitted under the provisions of this article.
- (2) Nothing in this section shall be construed to allow any increase in noncompliance of dimensional regulations applicable to any building or structure, except as expressly permitted under this article.
- C. Change of location. Nonconforming uses shall not be moved, in whole or in part, to another location on the same lot or parcel of land unoccupied by such use on the date by which the use was rendered nonconforming on the effective date of this chapter or any amendment thereto. Nonconforming uses shall not be moved to any other lot or parcel where such use would be nonconforming.
- D. Change to another nonconforming use. No nonconforming use shall be changed to another nonconforming use without approval by the Zoning Board of Appeals, and then only to a use that the Zoning Board of Appeals has found:
- (1) Is of the same or of a more restricted nature;
 - (2) Will not alter the essential character of the neighborhood; and
 - (3) Will not cause adverse aesthetic, environmental or ecological impacts on the property or on surrounding areas or otherwise be injurious to the neighborhood or detrimental to the public welfare.
- E. Improvement of nonconforming uses. So that nonconforming uses may gradually be brought into greater conformance with this chapter and the adverse external effects of such nonconforming uses may be reduced, the owner of the land, building or structure so used may be permitted to make limited changes to such building or structure or nonconforming use in conjunction with a site plan whereby, through the use of landscaped screening and buffer areas, control of noise, smoke, odors, lighting, architectural changes, location and layout of parking lots and access drives, or any other appropriate means, these purposes may be achieved. Such plan shall be presented to the Planning Board which may grant approval or approval with modifications, provided said agency finds that the purposes of this section will be achieved. For purposes of such site plan review, the Planning Board may seek recommendations from any other Village Board, committee or commission the Planning Board determines is appropriate.
- F. Enlargements and extensions. No nonconforming use shall be enlarged or extended, nor shall the intensity of the use be increased, except pursuant to the following:
- (1) Any nonconforming use of a building or structure may be extended throughout any parts of

the building or structure that were obviously or manifestly arranged or designed only for such use at the time said use was rendered nonconforming.

- (2) A nonconforming single-family, two-family, or multifamily dwelling may be enlarged or extended in accordance with the dimensional regulations specified for the district in which it is located so long as such enlarged or extended portion shall not exceed more than 10% of the livable residential floor area in the dwelling unit in existence on the date on which the use became nonconforming. Notwithstanding the foregoing, there shall be no increase in the number of dwelling units beyond the lawful number in existence on the date on which the use became nonconforming.
- G. Discontinuance. If a nonconforming use or a portion thereof, substantially ceases for any reason for a total of [six] **twelve** months [during any twelve-month period], or is changed to a conforming use for any period of time, any future use of the land, building, structure or land shall be in conformity with this chapter. Substantial cessation of activities consistent with or required for the operation of such nonconforming use and/or substantial vacancy of the building or structure in which the nonconforming use was conducted shall be deemed to constitute discontinuance thereof within the meaning of this chapter.
- H. Removal of building or structure housing nonconforming use. If any building or structure in which any nonconforming use is conducted or maintained is hereafter removed, the subsequent use of the land on which such building or structure was located and the subsequent use of any building or structure thereon shall be in conformity with the standards specified by this chapter for the district in which such land is located.

§ 270-52 Site development plan rules and regulations.

- A. No site development plan approval shall be required for single-family or two-family detached residential uses that are requesting additions, alterations or structures accessory thereto. All other principal uses, including the construction of single-family or two-family detached residential uses that are part of a proposed subdivision, and all conditional or special permit uses shall require a site development plan approval prior to the issuance of a building permit or certificate of occupancy. No lot or parcel of land shall be used except in conformity with an approved site development plan, when required.
- B. Objectives. In considering and acting upon site development 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 prospective occupants 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 to further the expressed intent of this chapter and to accomplish the following objectives, in particular:
 - (1) Traffic access. All proposed traffic access will be adequate but not excessive in number; adequate in width, grade, alignment and visibility; not located too near street corners or other major access points; located on a roadway capable of adequately and safely handling the additional traffic; and will provide for other similar safety considerations.
 - (2) Circulation and parking. Adequate off-street parking and loading spaces are provided to

prevent parking of vehicles on public streets. The interior circulation system will be adequate to provide safe accessibility to all required off-street parking.

- (3) Landscaping and screening. All recreation areas, parking and service areas will be reasonably screened from the view of adjacent residential lots and streets at all seasons of the year. As approved by the Planning Board or the Building Inspector, a bond shall be posted for the maintenance and/or replacement of the screening.
 - (4) Compatibility. Signs and lights will be compatible and in scale with building elements and will not represent significant impact on the environment or result in a waste of the land and other natural resources of the Village. To the greatest possible extent, development will be in harmony with the natural environment, and adequate compensatory devices will be prescribed to offset potential significant deterioration resulting from the project. Signs shall conform to size, shape, color, materials and location as called for by the Planning Board and/or Building Department.
 - (5) Development. The site development plan elements, including buildings, parking, drainage, utility services, circulation, signs and lighting, will not adversely affect the potential of adjacent properties or the property under review from its highest and best use and will not exceed the capabilities of existing municipal roads or utility services, including, but not limited to, water and sewer.
 - (6) Complete streets. The Village's adopted Complete Streets Policy shall be considered and applied by the Planning Board when deemed context appropriate in the review and approval of site development plans under the provisions of this chapter. The application of such Complete Streets Policy, which seeks to encourage convenience of access and mobility on any sidewalk, street and highway by all users of all ages and abilities, including motorists, pedestrians, bicyclists, and public transportation users through the use of complete streets design features, shall include consideration of best practices, as may be evidenced by guidelines and criteria such as those established by the American Association of State Highway Transportation Officials (AASHTO), New York State Department of Transportation (NYS DOT), United States Department of Transportation Federal Highway Administration Office of Safety (US DOT, FHWA), and the National Complete Streets Coalition, as well as those requirements included in the Americans with Disability Act (ADA) and the Village of Ossining Comprehensive Plan. **[Added 7-15-2015 by L.L. No. 4-2015]**
- C. Procedure. The Planning Board shall follow procedures as prescribed by Article 7, § 7-725, of the Village Law and by this chapter.
- (1) Prior to application for a building permit, certificate of occupancy or certificate of use, where required, site development plan approval shall be secured from the Planning Board. The applicant has the option of choosing between a formal application for approval and an informal submission for review. For purposes of an informal submission, the applicant should provide as much information as required by the Planning Board. The preapplication review by the Planning Board shall not constitute a formal review, and no approval can be granted based on it. At this time, the applicant should outline any modifications he/she is

requesting from the requirements specified herein.

- (2) Submissions for site development plan review shall be made on forms prescribed by the Planning Board and accompanied by a fee in accordance with the Standard Schedule of Fees of the Village of Ossining. Such submission shall be submitted to the Planning Board Secretary by the designated deadline as prescribed by the Planning Board.
 - (3) Prior to final action, the Planning Board may refer any matter involving any of the areas specified in Article **XIII**, § **270-59D**, and §§ 277.61 and 277.71 of the Westchester County Administrative Code, and §§ 239-l, 239-m and 239-n of the New York State General Municipal Law to the Westchester County Planning Board.
 - (4) The retention of consultants and payment for professional services provided by such consultants, including Village staff, shall be governed by Chapter **91**, Article **III** (Building Construction, Fees). [**Amended 10-7-2020 by L.L. No. 3-2020**]
- D. Site plan elements. The applicant shall cause a site plan map to be prepared, at a scale sufficient in size to permit an adequate review, by an architect, civil engineer, surveyor, landscape architect or allied field. 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. This information, in total, shall constitute the site plan and shall be the same information, drawings and supplementary material normally understood to be completed working drawings.
- (1) Legal data.
 - (a) Section, block and lot number of the property taken from the latest tax records.
 - (b) Name and address of applicant and notarized authorization of owner if different from applicant.
 - (c) Name and address of owners(s) of record, if different from applicant.
 - (d) Name and address of person or firm preparing the plan and map.
 - (e) Ownership intentions, such as purchase options.
 - (f) Current zoning classification of property, including exact zoning boundary if in more than one district.
 - (g) Property boundary line plotted to scale. Distances, angles and area should be shown.
 - (h) North arrow, scale and date.
 - (i) Locations, widths, elevations and names of existing and proposed adjacent streets.
 - (j) Property lines and names of owners of adjoining parcels.
 - (k) Location, width and purpose of all existing and proposed easements, setbacks, reservations

and areas dedicated to public use within and adjoining the property.

- (l) Description of all existing deed restrictions or covenants applying to the property.
- (m) Record of the application and approval status of all necessary state and county permits must be received before issuance of a building permit.
- (2) Natural features.
 - (a) Geologic features, such as depth to bedrock and the location of rock outcrops.
 - (b) Topographic features, including a map showing existing contour intervals of no more than five feet. Two-foot contour intervals should be required if the topography is relatively flat. Areas of steep slopes should be delineated as necessary.
 - (c) Vegetative cover, including existing wooded areas, significant isolated trees and similar features.
 - (d) Soil characteristics, such as load-bearing capacity and drainage capacity.
 - (e) Hydrologic features should include drainage and runoff patterns, flood hazard areas, wetlands and depth to groundwater.
- (3) Existing structures and utilities.
 - (a) Location and dimensions of major buildings and structures.
 - (b) Location and width of roads and paths, including site access.
 - (c) Location, size and flow direction of sewers, water supply lines and culverts. Major electric, gas and telephone lines and appurtenances should also be shown.
 - (d) Location of other existing development and uses, including parking and loading areas, fences, trees and landscaping.
- (4) Proposed development.
 - (a) Grading and drainage plan showing proposed topography at appropriate contour intervals. This information can be combined with the map of existing topography if it can be clearly depicted.
 - (b) Location, proposed use and height of buildings and other structures, such as retaining walls, fences, outdoor storage tanks, air-conditioning units and waste disposal units.
 - (c) Location, proposed use, design and construction materials of improvements not requiring structures, such as parking, loading and outdoor storage areas.
 - (d) Location and arrangement of site access and egress, including all paths for pedestrian and vehicular travel within the site. Information should include profiles and cross-sections of

roadways and sidewalks showing grades, widths and location and size of utility lines.

- (e) Location and size of water and sewer lines, hydrants and appurtenances. Any means of water supply or sewage disposal other than extensions of existing systems should be described, including location, design and construction materials.
 - (f) Location, design and construction materials of all energy distribution facilities, including electric, gas and solar energy.
 - (g) Location, size and design of all outdoor lighting facilities and public address systems.
 - (h) Location, size, design and construction materials of all outdoor signs.
 - (i) General landscaping plan and planting schedule, including the treatment of buffer areas and the location and types of trees to be planted.
 - (j) Additional specifications for materials.
 - (k) Location of all stormwater drainage and best management practices in accordance with Chapter **227**, Stormwater Management and Erosion and Sediment Control.
 - (l) An outline of any proposed easements, deed restrictions or covenants.
 - (m) Any contemplated public improvements on or adjoining the property.
 - (n) Any proposed new grades, indicating clearly how such grades will meet existing grades of adjacent properties on the street.
 - (o) If the site plan only indicates a first stage, a supplementary plan shall schematically indicate the theoretically possible ultimate development by means of showing the approximate location of all structures, vehicular circulation and parking. The supplementary plan shall include all contiguous lots in the same ownership as the lot(s) contained on the site plan.
 - (p) The applicant must supply the proper documentation and forms that are applicable to Chapter **118**, Environmental Quality Review, and Chapter **262**, Waterfront Consistency Review of this Code, and 6 NYCRR Part 617 State Environmental Quality Review (SEQR).
- E. Informal review and pre-submission conference. An applicant, at his/her discretion, may submit, prior to a formal application for final site development plan approval, an application for informal site development plan review. The applicant shall submit all application materials in as much detail as the Planning Board shall determine it requires to come to a preliminary conclusion as to the merits of the proposal. Should variances from the requirements of this chapter be contemplated, their nature and degree should be specified. In the event an applicant needs both Planning Board approval and a use or area variance from the Zoning Board of Appeals, the applicant should apply to the Planning Board first. In such case, the Planning Board shall promptly refer the matter to the Zoning Board of Appeals. The Planning Board shall not approve the application until any required variances have been approved by the Zoning Board of Appeals.

- F. Procedures to ensure that local actions comply with the Local Waterfront Revitalization Program (LWRP) policies.
- (1) Planning Board. The Planning Board shall notify the Village Manager and Waterfront Commission of pending actions using a coastal assessment form. It shall then find and certify, in writing, that:
 - (a) The action will not substantially hinder the achievement of any of the policies and purposes of the LWRP;
 - (b) If the action will substantially hinder the achievement of any policy of the LWRP, the following three requirements are satisfied: no reasonable alternatives exist which would permit the action to be undertaken in a manner which would not substantially hinder the achievement of such policy; the action will minimize all adverse effects on such policy to the maximum extent practicable; and the action will result in an overriding regional or statewide public benefit. Such certification shall constitute a determination that the action is consistent to the maximum extent practicable with the LWRP; or
 - (c) The action is not consistent with the policies and purposes of the LWRP, since it would substantially hinder the achievement of one or more policies and would not satisfy all of the requirements identified in Subsection **F(1)(b)** above.
 - (2) The Planning Board shall prepare its written findings and certification according to the same schedule required for approval/disapproval of conditional use requests, site plans and subdivision plats. The written findings and certification of consistency shall be filed with the Village Clerk before an action is undertaken. No action under the Planning Board's jurisdiction shall occur without the Board having certified that the action is consistent with the policies and purposes of the LWRP.
 - (3) Village Board.
 - (a) The Village Board or a Village agency, when proposing to undertake, approve or fund a Type I or unlisted action in the waterfront area, shall prepare or cause to be prepared a coastal assessment form for the proposed action.
 - (b) Following the preparation of an environmental impact statement (EIS) or the issuance of a negative declaration pursuant to SEQRA, a Village agency shall refer the coastal assessment form (CAF), any EIS or other pertinent information for that action to the Village Manager and to the Village Board which reviews and determines whether the action is consistent with the policies and purposes of the LWRP.
 - (c) Prior to its undertaking, approving or funding a proposed Type I or unlisted action in the waterfront area, and for each action referred by a Village agency, the Village Board shall find and certify that the action is or is not inconsistent with the LWRP. [See findings above under the Planning Board procedures, Subsection **F(2)**.]
 - (d) The Village Board shall complete its review of the proposed action's consistency and prepare a written finding to the referring Village agency within 30 days of the referral date.

The Village Board may refer such actions for review to any municipal agency, including, but not limited to, the Planning Board, Village Manager's Office, Building Department, Zoning Board of Appeals, Village Engineer, Historic Review Commission, Environmental Advisory Council and Waterfront Commission.

- (e) The written findings and certification of the Village Board shall be filed with the Village Clerk before the action is undertaken, approved or funded.
- (f) No action shall be undertaken, approved or funded unless the Village Board certifies its consistency with the policies and purposes of the LWRP.

G. Final review and approval.

- (1) An applicant, at his/her discretion, may submit, for final site development plan approval, an application. The applicant shall submit all application materials as required by § **270-52D**. Should variances from the requirements of this chapter be contemplated, their nature and degree should be specified. In the event an applicant needs both Planning Board approval and a use or area variance from the Zoning Board of Appeals, the applicant should apply to the Planning Board first. In such case, the Planning Board shall promptly refer the matter to the Zoning Board of Appeals. The Planning Board shall not approve the application until any required variances have been approved by the Zoning Board of Appeals.
- (2) The Planning Board will review the proposed plan with the general and specific criteria set forth in this chapter and other applicable rules and regulations of the Village of Ossining, state or county. The Planning Board shall authorize the setting of a public hearing for consideration of final site development plan approval. In addition to publication of notice of such public hearing as required by law, the Planning Board shall cause such notice to be mailed at least 10 days before the hearing to all owners of property which lies within 300 feet of any boundary line of the property which is the subject matter of the application and to such other owners as the Planning Board may deem advisable. The names of said owners shall be taken as they appear on the last completed tax roll of the Village. Provided that due notice shall have been published as required by law and that there shall have been substantial compliance with the remaining provisions of this section, the failure to give notice in exact conformance herewith shall not be deemed to invalidate action taken by the Planning Board in connection with such application. In the event that a conditional use approval is required, the Planning Board shall simultaneously consider both applications. In reviewing a site development plan application which has been granted a special permit by the Village Board, the Planning Board shall ensure conformity with any special permit requirements. The final site development plan and all supporting materials shall be subject to review and consultation. The Board shall make a determination on the application within 62 days of the close of the public hearing. In the event that no determination is made within 62 days and the applicant has not waived the time requirements, the application shall be deemed approved. The Board shall include such conditions of approval as were required and in addition:
 - (a) The Planning Board shall require that on- or off-site improvements be installed, including, but not limited to, on- or off-site drainage systems to ensure that all drainage, storm runoff

and subsurface waters are carried into approved watercourses and drainage systems shown on the Official Map. The Planning Board shall further require that all such off-site improvements and/or drainage systems be installed on property granted to the Village by fee, easement or otherwise, as determined by the Planning Board.

- (b) No certificate of occupancy or use shall be issued for the site until all the improvement shown on the site development plan, including off-site requirements required by the site development plan, have been duly installed and all easements and property interests granted or dedicated to the Village.
- (c) The site shall be developed in strict conformity with the approved site development plan, except as provided for below. When the approval of a change based on unexpected or unanticipated conditions is requested of the Building Inspector or other appropriate Village agency, such request shall be submitted to the appropriate inspecting agency in writing. No field change shall be valid unless a copy of the requested change is filed with the Planning Board, with the approval of the appropriate agency noted thereon or appended thereto, within five days of such approval. Such change shall be deemed acceptable if not acted upon by the Planning Board within 62 days.

H. Reservation of parkland on site plans containing residential units.

- (1) Before such authorized board may approve a site plan containing residential units, such site plan shall also show, when required by such board, a park or parks suitably located for playground or other recreational purposes.
- (2) Land for park, playground or other recreational purposes may not be required until the authorized board has made a finding that a proper case exists for requiring that a park or parks be suitably located for playgrounds or other recreational purposes within the Village. Such findings shall include an evaluation of the present and anticipated future needs for park and recreational facilities in the Village based on projected population growth to which the particular site plan will contribute.
- (3) In the event the authorized board makes a finding pursuant to Subsection **H(2)** that the proposed site plan presents a proper case for requiring a park or parks suitably located for playgrounds or other recreational purposes, but that a suitable park or parks of adequate size to meet the requirements cannot be properly located on such site plan, the authorized board may require a sum of money in lieu thereof to be established by the Village Board of Trustees or alternatively, land and/or improvements may be provided off site at another location mutually agreeable to the developer and the Village. The amount of land and/or improvements shall be equal in value to money offered in lieu thereof and in accordance with the schedule set forth herein. In making such determination of suitability, the board shall assess the size and suitability of lands shown on the site plan which could be possible locations for park or recreational facilities, as well as practical factors including whether there is a need for additional facilities in the immediate neighborhood. Any monies required by the authorized board in lieu of land for park, playground or other recreational purposes, pursuant to the provisions of this section, shall be deposited into a trust fund to be used by the Village exclusively for park, playground or other recreational purposes, including the

acquisition of property.

- (4) Notwithstanding the foregoing provisions of this subsection, if the land included in a site plan under review is a portion of a subdivision plat which has been reviewed and approved, the authorized board shall credit the applicant for any land set aside or money donated in lieu thereof under such subdivision plat approval. In the event of resubdivision of such plat, nothing shall preclude the additional reservation of parkland or money donated in lieu thereof.
- I. Performance bond. A performance bond may be required by the Planning Board **in conjunction with the Village Engineer. Such performance bond** to be posted by the applicant to guarantee to the Village that [he or she] **the applicant** will faithfully construct, or cause to be constructed, the required public improvements and utilities which were an integral part of [his or her] **the applicant's** approved site plan; and further, that the construction shall be complete within a reasonable period of time. **The form of the performance bond to be reviewed and approved by the Village Engineer and Corporation Counsel. The Village Engineer to determine the amount of the performance bond.** [The performance bond will be prepared by the Village Engineer.] Performance bond amount, completion schedule, public improvements covered, inspection and bond approval must be received before issuance of a building permit.
- J. Signing and referral of plan. Upon submission of the final site development plan with modifications required by the Planning Board in its final approval and upon satisfaction of any conditions imposed by such approval, the Chairperson of the Planning Board shall sign the approved site development plan and file one copy with the Building Inspector, who may thereafter issue a building permit, certificate of occupancy and certificate of use in reliance thereon, in accordance with Article VII.
- K. Amendment of plan. An application for an amendment of any approved site development plan for a site which has received prior final site development plan approval shall be processed in accordance with the preceding provisions. However, only those site development plan elements proposed to be modified or changed need be presented, except where such modifications or changes have a material and substantial impact on the balance of the site development plan and functioning of the site. Any change constituting an overall site plan change of more than 10%, **or with the possibility to result in a significant change to the site and surrounding properties** as determined by the Planning Board, will require a new site plan submission. The applicant's licensed design professional shall submit a letter, and a drawing when necessary, indicating the scope of the proposed change no later than 20 days before a Planning Board meeting for a determination by the Planning Board as to whether the proposed amendment shall require a public hearing. Fees for an amended site development plan approval shall be in accordance with the Standard Schedule of Fees of the Village of Ossining.
- L. Approval of a site development plan shall be valid for one year from the date thereof for the purpose of obtaining a building permit. Failure to secure a building permit during this time period shall cause the site plan approval to become null and void. Upon the request of the applicant, the Planning Board may grant an extension for a period not to exceed one year.

There shall be up to two extensions that may be granted, for a total time period of all the extensions, taken together, of no more than two years. **The Planning Board may provide additional extensions in one-year increments if, in its opinion, such extensions are warranted due to particular circumstances which prevent a building permit from being issued such as a delay in issuing of permits or obtaining approvals from outside agencies.**

- M. Maintenance. It shall be the duty of every property owner to maintain his/her property in conformity with the approved site development plan. Failure to do so may constitute a violation of this chapter, resulting in civil or criminal penalties, forfeiture of bonds, suspension of consideration of all applications before the Planning Board relating to the same property and other remedies deemed necessary by the appropriate authorities.
- N. Appeal. Any person aggrieved by any decision of the Planning Board hereunder may, within 30 days of the filing of the decision in the office of the Village Clerk, seek judicial review pursuant to Article 78 of the New York State Civil Practice Law and Rules.

[§ 270-43 Building and demolition permits.

[Amended 8-2-2011 by L.L. No. 3-2011; 7-15-2015 by L.L. No. 5-2015]

No building or retaining wall in any district shall be erected, demolished, reconstructed or restored or structurally altered without a building permit and/or demolition permit duly issued upon application to the Building Inspector. No building permit or demolition permit shall be issued unless the proposed construction, demolition or use is in full conformity with all the provisions of the law. Any building permit or demolition permit issued in violation of the provisions of this chapter shall be null and void and of no effect, without the necessity for any proceedings for revocation or nullification thereof, and any work undertaken or use established pursuant to any permit shall be unlawful.

- A. At a minimum, every application for a building permit shall contain the following information and be accompanied by the required fee and by a plot plan drawn to scale and signed by the person responsible for such drawing. If no such plot plan is available, a survey, prepared by a licensed engineer or land surveyor, is required. Additional information and documentation may be required by the Building Inspector when context appropriate.
 - (1) The actual shape, dimensions, radii, angles and area of the lot on which the building is proposed to be erected or of the lot on which it is situated, if an existing building.
 - (2) The section, block and lot numbers as they appear on the latest tax records.
 - (3) The exact size and locations on the lot of the proposed building or buildings or alteration of an existing building and of other existing buildings on the same lot, including driveways and walks.
 - (4) The dimensions of all yards in relation to the subject building and the distances between such building and any other existing buildings on the same lot.

- (5) The existing and intended use of all buildings, existing or proposed, the use of land and the number of dwelling units the building is designed to accommodate.
 - (6) Such topographic or other information with regard to the building, the lot or neighboring lots as may be necessary to determine that the proposed construction will conform to the provisions of this chapter.
- B. At a minimum, every application for a demolition permit shall contain the following information and be accompanied by the required fee. Additional information and documentation may be required by the Building Inspector when context appropriate.
- (1) Location of the property to be the subject of the demolition, including the street address and the section, block and lot numbers as they appear on the latest tax records.
 - (2) Name and contact information for the owner of the property.
 - (3) The building type and dimensions, including square footage and number of stories.
 - (4) Certificates of insurance of the type and in the coverage limits set from time to time by the Building Inspector and as set forth on the face of the application.
 - (5) Notice from utility providers that service has been disconnected.
 - (6) Certificate of compliance by licensed exterminator.
 - (7) Test results from a New York State certified inspector as to the presence of asbestos and other similar hazards.
 - (8) A bond or cash deposit in an amount deemed by the Building Inspector to cover the cost of compliance with this chapter.
 - (9) Photographs of all sides of the building(s) to be demolished.
 - (10) Demolition plans stamped and signed by a licensed architect or engineer, the sufficiency of the level of detail on such plans to be determined by the Building Inspector as context appropriate.
- C. No building permit shall be issued for the construction or alteration of any building upon a lot without access to a street or highway as stipulated in § 7-736 of the Village Law.
- D. No building permit shall be issued for any building subject to site plan approval by the Planning Board or subject to review by the Board of Architectural Review, except in conformity with the plans approved by either or both of said boards, as appropriate.
- E. No building permit shall be issued for a building to be used for any conditional use in any district where such use is subject to approval by the Planning Board, unless and until such approval has been duly granted by the Planning Board.
- F. No building permit shall be issued for a building to be used for any special permit in any

district where such use is subject to approval by the Village Board, unless and until such approval has been duly granted by the Village Board.

- G. No building permit shall be issued for a building permitted subject to a variance granted by the Zoning Board of Appeals, except in accordance with all conditions which may have been prescribed by such Board.
- H. No demolition permit shall be granted without consideration of and compliance with § **270-25E**, Regulated conduct for alteration, demolition or new construction affecting landmarks or historic districts, if applicable.
- I. The building and demolition permit application and all supporting documentation shall be made in such number of copies as may be required by the Building Inspector. Upon issuance of a building permit, the Building Inspector shall return one copy of all filed documents to the applicant.
- J. The Building Inspector or his or her duly authorized designee shall, after the filing of a complete and properly prepared application, either issue or deny a building or demolition permit. If a building or demolition permit is denied, the Building Inspector or his or her duly authorized designee shall state, in writing, to the applicant the reasons for such denial.
- K. Every building permit shall expire if the work authorized has not commenced within three months after the date of issuance, or has not been completed 12 months from such date for construction costing less than \$1,000,000 and has not been completed within 18 months from such date for construction costing in excess of such amount. If no amendments to this chapter or to other codes or regulations affecting subject property have been enacted in the interim, the Building Inspector may authorize, in writing, the extension of either of the above periods for an additional six months, following which no further work is to be undertaken without a new building permit.
- L. Every demolition permit issued pursuant to this chapter may be suspended or revoked if it is determined that the work to which it pertains is not proceeding in conformity with applicable law or regulation, or with any condition attached to such permit, or if there has been a misrepresentation or falsification of a material fact in connection with the application for the permit.
- M. A demolition permit issued pursuant to this chapter shall expire six months from the date of issuance. A demolition permit may, upon written request, be renewed for up to two successive six-month periods. Renewals of permits may be granted only if:
 - (1) The permit has not been revoked or suspended at the time the application for renewal is made;
 - (2) The relevant information in the application is up to date; and
 - (3) Any applicable renewal fee is paid.
- N. As soon as the construction of any foundation of a building or of any addition to an existing

building is completed, and before first-story framing or wall construction is begun, there shall be filed with the Building Inspector an accurate survey, signed by the person responsible for said survey, showing the exact location of such foundation with respect to the street and property lines of the lot.

- O. Applications for a building permit or a demolition permit, and any extensions thereof, shall be accompanied by a fee, as set forth in the fee schedule of the Village of Ossining.]

[§ 270-44 Certificates of occupancy.

- A. The following shall be unlawful until a certificate of occupancy shall have been applied for and issued by the Building Inspector.
 - (1) Occupancy and use of a building erected, reconstructed, restored, altered or moved or any change in use of an existing building.
 - (2) Occupancy, use or any change in use of land.
 - (3) Any change in use of a nonconforming use.
 - (4) Occupancy and use of any enlargement to an existing structure.
- B. No certificate of occupancy shall be issued for any conditional use of a building or of land requiring conditional use approval by the Planning Board or for any land or use requiring site plan approval by the Planning Board unless and until such conditional use or site plan approval has been duly granted by the Planning Board. Every certificate of occupancy for which conditional use or site plan approval has been granted, or in connection with which a variance has been granted by the Zoning Board of Appeals, shall contain a detailed statement of any condition to which the same is subject.
- C. Application for a certificate of occupancy for a new building or for an existing building which has been altered shall be made on forms furnished by the Building Inspector after erection of such building, or part thereof, has been completed in conformity with the provisions of this chapter. In the case of a new building, such application shall be accompanied by an accurate plot plan or, if not available, by a survey prepared by a licensed land surveyor or engineer showing the location of all buildings as-built. Such certificate shall be issued within 10 days after receipt of the properly completed application, but only provided the application states that all requirements of all other applicable codes or laws in effect are complied with.
- D. If the proposed use is in conformity with the provisions of this chapter and of all other applicable codes, ordinances and laws, a certificate of occupancy for the use of vacant land or for a change of use of a nonconforming use shall be issued by the Building Inspector within 10 days after receipt of a properly completed application. If a certificate of occupancy is denied, the Building Inspector shall state the reasons, in writing, to the applicant.
- E. In regard to those uses which are subject to the performance standards procedure, the following requirements shall also apply:

- (1) Any normal replacement or addition of equipment and machinery not affecting the operations or the degree or nature of dangerous and objectionable elements emitted shall not be considered a change in use.
 - (2) After occupancy, if there occur frequent or continuous, even though intermittent, violations of the performance standards and other provisions for a period of five days, without bona fide and immediate corrective work, the Building Inspector shall suspend or revoke the occupancy permit of the use, and the operation shall immediately cease until it is able to operate in accordance with these regulations, at which time the occupancy permit shall be reinstated.
 - (3) The Building Inspector shall investigate any alleged violation of the performance standards, and if there are reasonable grounds to believe that a violation exists, he may employ qualified experts. A copy of the findings of the Building Inspector and, where applicable, said experts shall be forwarded to the Village Board. The services of any qualified experts employed by the Village to advise in establishing a violation shall be paid for by the violator, if a violation is proved, and otherwise by the Village. No new certificate of occupancy shall be issued unless such charges have been paid to the Village.
- F. Every application for a certificate of occupancy or a temporary certificate of occupancy shall be accompanied by a fee as set forth in the fee schedule of the Village of Ossining.
 - G. A certificate of occupancy shall be deemed to authorize, and is required for, both initial occupancy and the continued occupancy and use of the building or land to which it applies.
 - H. Upon written request by the owner, and upon payment of a fee as provided in the building code, the Building Inspector shall, after inspection, issue a certificate of occupancy for any building or use thereof, or of land, existing at the time of the adoption of this chapter, certifying such use and whether or not the same and the building conforms to the provisions of this chapter.
 - I. A record of all certificates of occupancy shall be kept in the office of the Building Inspector, and copies shall be furnished, on request, to any agency of the Village or to any persons having a proprietary or tenancy interest in the building or land affected.
 - J. A partial certificate of occupancy or use for periods of 90 days, but not more than one year in the aggregate, for a building, structure or part thereof may be issued before all the on-site improvements are complete; provided, nonetheless, that such portion or portions of the site improvements as are necessary to permit the site to be occupied safely without endangering life or the public welfare have been completed. The Building Inspector shall require a cash deposit to ensure and guarantee the completion of the on-site improvements. The Building Inspector shall determine the sum of such cash deposit. **[Added 8-2-2011 by L.L. No. 3-2011]**

[§ 270-45 Duties of Building Inspector.

- A. It shall be the duty of the Building Inspector to enforce the provisions of this chapter and of all rules, conditions and requirements adopted or specified pursuant thereto.

- B. The Building Inspector, or his duly authorized assistant(s), shall have the right to enter any building or enter upon any land at any reasonable hour, as necessary, in the execution of their duties.]

§ 270-[46] **43 Penalties for offenses.**

- A. [Any person or corporation, whether as owner, lessee, architect, contractor or builder, or the agent or employee of any of them, who violates or who knowingly assists in the violation of any provision of this chapter or any rule or regulation made under the authority conferred by this chapter or who shall build, erect, construct, alter, enlarge, convert or move any building or structure, or any part thereof, without a building permit, or in violation of this chapter, or in violation of any statement or plans submitted and approved under the provisions of this chapter, or who shall use any land, building or structure in violation of this chapter or any rule or regulation made under the authority conferred by this chapter or any statement or plan submitted and approved thereunder or in violation of the provisions of any building permit or change of occupancy permit or certificate of occupancy or without a permit or certificate required by this chapter and who fails to abate said violation within the time period specified on the violation notice issued by the Building Inspector, or his designee, and after written notice has been served upon him either by mail or personal service shall be liable to a minimum fine of \$100 and a maximum fine of \$5,000 or imprisonment not exceeding 15 days, or both such fine and imprisonment. Each and every day that any such violation continues after the specified time to abate shall constitute a separate offense.] **Any person or corporation, whether as owner, lessee, architect or builder, or the agent or employee of any of them who violates or knowingly assists in the violation of any provision of this chapter or any rule or regulation made under the authority conferred by this chapter or in violation of any statement or plans submitted or approved under the provisions of this chapter or who shall use or occupy any land, building or structure in violation of this chapter, shall be liable for a minimum fine of \$500 and a maximum fine of \$5,000 or imprisonment not exceeding 15 days, or both such fine and imprisonment. Each and every day that any such violation of this chapter continues shall constitute a separate offense.**
- B. The imposition of penalties herein prescribed shall not preclude the Village or any person from instituting appropriate legal action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use or to restrain, correct or abate a violation or to prevent the illegal occupancy of a building, land or premises.

Section 4. Effective Date.

This local law shall be effective upon filing with the Secretary of State pursuant to the Municipal Home Rule Law.

