

**TOWN OF PLEASANT VALLEY  
LOCAL LAW 2 OF 2024**

**A LOCAL LAW AMENDING CHAPTERS 20 AND 98 TO SPECIFY TRAINING AND ATTENDANCE REQUIREMENTS FOR MEMBERS OF THE PLANNING BOARD AND ZONING BOARD OF APPEALS, CHANGE THE NUMBER OF ZBA MEMBERS, AND SPECIFY USE OF ALTERNATE MEMBERS FOR BOTH BOARDS**

**BE IT ENACTED** by the Town Board of the Town of Pleasant Valley as follows:

**SECTION 1.           TITLE.**

This Local Law shall be entitled “A Local Law Amending Chapters 20 and 98 to Specify Training and Attendance Requirements for Members of the Planning Board and Zoning Board of Appeals, Change the Number of ZBA Members, and Specify Use of Alternate Members for Both Boards”.

**SECTION 2.           PURPOSE AND INTENT.**

- A. The Town Board of the Town of Pleasant Valley appreciates the dedication and service of the members and alternate members of the Planning Board and Zoning Board of Appeals (“ZBA”) and wishes to modify and clarify certain requirements and procedures to maximize the boards’ effectiveness.
- B. The Town Board finds that appropriate training and regular attendance of the ZBA and Planning Board members is essential to the proper functioning of said Boards. The Legislature of the State of New York has recognized the importance of training and has established training and attendance requirements in its recent amendments to the ZBA and Planning Board statutes as contained in §§ 267 and 271 of the Town Law.
- C. It is the purpose of this local law to ensure that ZBA and Planning Board members obtain appropriate training to enhance their ability to carry out their duties under applicable provisions of law and to pay the reasonable costs of such training as a Town charge. It is the further purpose of this article to establish minimum attendance requirements for such members at meetings to assist in the proper functioning of the Planning Board and the ZBA.
- D. The Town Board also finds it appropriate to modify the number of ZBA members to five to conform to Town Law § 267.
- E. Finally, the Town Board finds that the functioning of the Planning Board and ZBA, and the Town’s review of land use applications, would be best served by clarifying the role of alternate members of the Planning Board and ZBA. The Town Board deems it appropriate for alternate members to take part in board deliberations so that they are able to step in as voting members when needed to ensure business can be conducted.

**SECTION 3.           AUTHORITY.**

This law is enacted pursuant to Section 10 of the Municipal Home Rule Law.

**SECTION 4.           AMENDMENTS TO THE CODE.**

A. Chapter 20, “Planning Board”, is hereby repealed and replaced as follows:

**Chapter 20: Planning Board and Zoning Board of Appeals**

**§ 20-1. Training and Attendance Requirements for Planning Board and Zoning Board of Appeals.**

- A. Each member of the Planning Board shall be expected to review and familiarize himself/ herself with the Town’s Subdivision Regulations and those portions of the Zoning Law which relate to the powers and duties of the Planning Board, and Article 16 of the Town Law.
- B. Each member of the Zoning Board of Appeals (ZBA) shall be expected to review and familiarize himself/ herself with those portions of the Zoning Law which relate to the powers and duties of the ZBA, and Article 16 of the Town Law.
- C. The members of the Planning Board and ZBA shall be expected to conduct themselves in conformity with all rules and regulations that may be adopted by the Town Board and/or by the Planning Board or ZBA, as the case may be, for the conduct of meetings and public hearings of the respective Boards.
- D. Each member of the Planning Board and ZBA shall complete, at a minimum, four hours of training each year designed to enable such member to more effectively carry out their duties. Any training received by a member in excess of four hours in any one year may be carried over by that member into succeeding years in order to meet this training requirement, all in accordance with the provisions of Town Law §§ 267 and 271.
- E. Any such training for Planning Board and ZBA members shall be approved by the Town Board and may include, but not be limited to, training provided by a municipality, regional or county office or commission, county planning, federation, state agency, statewide municipal association, college or other similar entity, and such training may be provided in a variety of formats including, but not limited to, electronic media, video, distance learning and traditional classroom training. The Town Board shall pay or reimburse the Board members for the reasonable cost of their four-hour training sessions.
- F. To be eligible for a reappointment at the expiration of a Planning Board or Zoning Board of Appeals member’s term, such member shall have completed the training as required by this article and by Town Law §§ 267 and 271.
- G. The training provided by this law may be waived or modified by Resolution of the Town Board when, in the judgment of the Town Board, it is in the best interest of the Town to do so.
- H. No decision of the Planning Board shall be voided or declared invalid because of a failure of a member to comply with the training or other requirements of this Resolution.

- I. No member of the Planning Board or Zoning Board of Appeals may miss three regularly scheduled meetings of the Board during a calendar year, other than for a medical or other emergency or for any other just cause approved, in advance, by the Chair of the Planning Board. It is expected that Board members be on time and call the Chair or Secretary if he/she cannot attend a meeting.
- J. The Town Board shall have the power to remove, after public hearing, for cause, any Planning Board or ZBA member. Cause for removal shall include, but shall not be limited to:
  - (1) Noncompliance with the minimum requirements relating to training and education as established in this article and/or by Town Law;
  - (2) Noncompliance with the meeting attendance requirements as established by this article;
  - (3) Failure to comply with the residency requirements as are set forth for Public Officers or in the Town Law;
  - (4) Failure to disclose a conflict of interest as required by the Town's Code of Ethics;
  - (5) Failure to comply with the applicable provisions of the Pleasant Valley Code of Ethics;
  - (6) Failure to comply with any rules or regulations as may be prescribed for the conduct of Board members by the Town Board, Planning Board or ZBA; and
  - (7) Such other and further cause as may be established by the Town Board by local law.
- K. Prior to the conduct of any public hearing for the removal of a Planning Board or ZBA member for cause, the Town Board shall provide the Board member with a statement setting forth the alleged grounds for such removal at least 30 days prior to the conduct of the public hearing. During the public hearing, the Town Board shall have the power to hear testimony and receive evidence presented by the Town Attorney, by the Chair of the applicable Board or by any other person in support of, or against, the grounds for such removal. The Board member shall have the right to present witnesses and other evidence in defense of the removal action and the Town Board shall have the power to hear other witnesses and members of the public, and receive documentation and evidence relevant to the issue of the alleged cause for the Board member's removal. In cases where the grounds for removal consist of an alleged violation of the Pleasant Valley Code of Ethics, procedures for a hearing, discipline and/or removal set forth in the Code of Ethics shall be also followed.
- L. Any determination of the Town Board with regard to removal of a Planning Board or ZBA member shall be made by the Town Board, in writing, and a copy shall be provided to the Planning Board or Zoning Board of Appeals member and filed in the Office of the Town Clerk within five business days after the Town Board's determination.
- M. Each member of the Planning Board and Zoning Board of Appeals shall be required to keep records of his/her attendance at required training sessions and to provide to the

Planning Board and Zoning Board Secretary, as the case may be, certificates of attendance for completion or other proof of completion of training courses on an annual basis. The Planning Board and ZBA Secretary shall keep records of the attendance of each Board member at the required training courses and shall present, at the close of each calendar year, a list of each Board member's courses and credits earned in that year, together with any credits carried over from previous years, to the Town Clerk and to the Town Board.

- N. The Planning Board and ZBA Secretaries shall also keep records of the attendance of Board members at meetings and shall provide attendance records to the Town Clerk and to the Town Board on a quarterly basis.
- O. A copy of this article shall be supplied by the Town Clerk to each member of the Planning Board and ZBA.

B. In Chapter 98, "Zoning," section 98-92, "Planning Board organization," is repealed and replaced as follows:

**§ 98-92. Planning Board organization.**

A. Powers and Duties

- (1) The Town Planning Board shall have and exercise the following powers and duties:
  - (a) To approve all plats of subdivision showing lots, blocks or sites, with or without streets or highways, within the Town.
  - (b) To pass upon and approve the development of plats already filed in the office of the Clerk of Dutchess County if such plats are entirely or partially undeveloped.
  - (c) To approve or disapprove changes in the lines of existing streets, highways or public areas shown on subdivision plats or maps filed in the County Clerk's office.
- (2) The Planning Board may recommend to the Town Board regulations relating to any subject matter over which the Planning Board has jurisdiction pursuant to § 271 of the Town Law, or any other statute or under any local law or ordinance of the Town. Adoption of any such recommendations by the Town Board shall be by local law or ordinance.
- (3) The Planning Board shall submit a report to the Town Board on any matter or class of matters other than those in § 271, Subdivision 13, referred to the Planning Board by the Town Board for review and recommendation, before final action is taken by the Town Board or other office or officer of the Town having final authority over said matter. The Town Board may stipulate that final action shall not be taken until the Planning Board has submitted its report thereon, or has had a reasonable time to submit the report. Such a time period shall be fixed by the Town Board in the resolution to submit the report.
- (4) The Planning Board shall also exercise all other powers conferred upon it by the provisions of the Town Law. It shall conduct hearings and perform its duties in accordance with such procedure as is provided in §§ 271 to 281, inclusive, of the Town Law and acts amendatory thereof.

B. Membership.

- (1) The Planning Board of the Town of Pleasant Valley as heretofore established by the Town Board pursuant to § 271 of the Town Law of the State of New York is hereby maintained with seven members.
- (2) Planning Board members shall be selected and appointed by the Town Board. Member terms shall be seven years with one term ending each year. One member shall be designated the Chairperson by the Town Board and shall serve as Chairperson at the pleasure of the Town Board.

- (3) A person who is a member of the Town Board shall not be eligible for appointment to the Planning Board. However, no person shall be disqualified from serving as a member of the Planning Board by reason of serving as a member of a village or county planning board.
- (4) If a vacancy shall occur otherwise than by expiration of term, the Town Board shall appoint a new member for the unexpired term.
- (5) The Town Board shall have the power to remove, after a public hearing, any member of the Planning Board for cause.
- (6) Alternate Members.

- (a) Definitions. As used in this section, the following terms shall have the meanings indicated:

ALTERNATE MEMBER — An individual appointed by the Town Board available for service when a regular member of the Planning Board must be absent or is unable to participate on an application or matter before the Board due to a conflict of interest or otherwise, as provided herein.

- (b) Number and term of alternate members. The Town Board shall appoint, by resolution, two alternate members to the Planning Board for a term of two years, with their terms to expire on December 31 of the second year after the date of their appointment.
- (c) Designation of an alternate member.

[1] The Chairperson of the Planning Board shall designate an alternate member to substitute for a member when such member is absent or is unable to participate on an application or matter before the Board. If there are two alternate members, they shall be designated for service on a rotating basis. When so designated, the alternate member shall possess all of the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the first meeting of the Planning Board at which the substitution is made.

[2] Provided that all other requirements of this section are satisfied, the designation of an alternate member to serve as a member may be made for a particular meeting or meetings, or for a specified period of time, but no event beyond the duration of the alternate member's appointment as an alternate member. The designation to substitute shall take place only when a regular Board member in whose place the alternate member shall act is absent or otherwise unable to serve as specified herein.

[3] Upon the return of an absent regular member or the resumption of the regular member's ability to serve, the alternate member shall automatically resume his/her status as an alternate member and shall no longer be allowed to vote on Board affairs. The alternate member shall remain eligible to

substitute in the future for the same or other regular members, subject to the same requirements of eligibility set forth herein, including redesignation as an acting member of the Board.

[4] When an alternate member is not designated to serve as a member at a particular meeting, the alternate member may sit with the Board and may take part in discussion so that the alternate will be prepared if called upon to vote on an application at a future meeting.

(d) Duties and responsibilities of alternate members. All provisions of state law relating to the Planning Board member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of a local law/local ordinance relating to training, continuing education and attendance, shall also apply to alternate members.

#### C. Planning Board Procedure.

- (1) Meetings of the Planning Board shall be held at the call of the Chairperson and at such other times as such Board may determine. Such Chairperson, or in his or her absence the Acting Chairperson, may administer oaths and compel the attendance of witnesses.
- (2) The Planning Board shall have the power and authority to employ experts, clerks and a secretary, and to pay for their services, and to provide for such other expenses as may be necessary for the Planning Board to carry out its duties, not exceeding the appropriation made for such purposes.
- (3) The Town Planning Board may adopt rules and regulations in respect to procedure before it and in respect to any subject matter over which it has jurisdiction under this chapter or any statute, after public hearing by such Board and subject to the approval of the Town Board.

- C. In Chapter 98, “Zoning,” section 98-95, “Establishment and powers of Zoning Board of Appeals,” is repealed and replaced as follows:

**§ 98-95. Establishment and powers of Zoning Board of Appeals.**

A. Creation, appointment and organization.

(1) This chapter shall be administered by a Zoning Board of Appeals maintained in accordance with Article 16, § 267, of the Town Law.

(2) The Zoning Board of Appeals shall consist of five members appointed by the Town Board. The Town Board shall designate the Chair and fix the terms of office of the members. The Town Board shall appoint a Secretary and shall prescribe rules for the conduct of its affairs.

(a) The Board shall transition from seven members to five as follows: For the year 2024, the Board shall consist of seven members. Beginning in January 2025, the board shall consist of five members. If there are more than five members whose terms extend into 2025, the members with the least time on the board shall be changed to alternates or removed from the Board to ensure a five-member Board.

(3) Alternate Members.

(a) Definitions. As used in this section, the following terms shall have the meanings indicated:

ALTERNATE MEMBER — An individual appointed by the Town Board available for service when a regular member of the Zoning Board of Appeals must be absent or is unable to participate on an application or matter before the Board due to a conflict of interest or otherwise, as provided herein.

(b) Number and term of alternate members. The Town Board shall appoint, by resolution, two alternate members to the Zoning Board of Appeals for a term of two years, with their terms to expire on December 31 of the second year after the date of their appointment.

(c) Designation of an alternate member.

[1] The Chairperson of the Zoning Board of Appeals shall designate an alternate member to substitute for a member when such member is absent or is unable to participate on an application or matter before the Board. If there are two alternate members, they shall be designated for service on a rotating basis. When so designated, the alternate member shall possess all of the powers and responsibilities of such member of the Board. Such designation shall be entered into the minutes of the first meeting of the Zoning Board of Appeals at which the substitution is made.

[2] Provided that all other requirements of this section are satisfied, the

designation of an alternate member to serve as a member may be made for a particular meeting or meetings, or for a specified period of time, but no event beyond the duration of the alternate member's appointment as an alternate member. The designation to substitute shall take place only when a regular Board member in whose place the alternate member shall act is absent or otherwise unable to serve as specified herein.

[3] Upon the return of an absent regular member or the resumption of the regular member's ability to serve, the alternate member shall automatically resume his/her status as an alternate member and shall no longer be allowed to vote on Board affairs. The alternate member shall remain eligible to substitute in the future for the same or other regular members, subject to the same requirements of eligibility set forth herein, including redesignation as an acting member of the Board.

[4] When an alternate member is not designated to serve as a member at a particular meeting, the alternate member may sit with the Board and may take part in discussion, so that the alternate will be prepared if called upon to vote on an application at a future meeting.

(d) Duties and responsibilities of alternate members. All provisions of state law relating to the Zoning Board of Appeals member eligibility, vacancy in office, removal, compatibility of office and service on other boards, as well as any provisions of a local law/local ordinance relating to training, continuing education and attendance, shall also apply to alternate members.

B. Powers. The Zoning Board of Appeals shall have all the powers and duties prescribed by law and by this chapter, which are more particularly specified as follows:

(1) Interpretation. Upon appeal from a decision by the Zoning Administrator, to decide any question involving the interpretation of any provision of this chapter, including determination of the exact location of any district boundary if there is uncertainty with respect thereto.

(2) Special use permits. To issue special use permits when appropriate for any of the uses for which this chapter requires the obtaining of such permits from the Board of Appeals.

(3) Variances. A variance is permission granted by the Zoning Board of Appeals so that property may be used in a manner not allowed by zoning. It is only the Zoning Board of Appeals that has the power to provide for such exceptions from the zoning. Since zoning is meant to implement the municipality's development objectives and protect the health, safety and general welfare of the people, there are strict rules governing when exceptions may be provided. In granting any variance, the Zoning Board of Appeals shall prescribe any conditions that it deems to be necessary or desirable.

(a) No variance from the strict application of any provision of this chapter shall

be granted by the Zoning Board of Appeals unless it finds:

[1] That there are special circumstances or conditions, fully described in the findings of the Zoning Board of Appeals, applying to such land or buildings and not applying generally to land or buildings in the neighborhood, and that said circumstances or conditions are such that strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or buildings.

[2] That, for reasons fully set forth in the findings of the Zoning Board of Appeals, the granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Zoning Board of Appeals is the minimum variance that will accomplish this purpose.

[3] That the granting of the variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

(b) Any variance which is not exercised within one year from the date of issuance or which has now been or hereafter remains unexercised for a continuous period of one year is hereby declared to be revoked without further hearing by the Zoning Board of Appeals.

(c) The regulations for the two types of variances are as follows:

[1] Use variances.

[a] The Zoning Board of Appeals, upon appeal from the decision or determination of the Zoning Administrator, shall have the power to grant use variances, authorizing a use of land which otherwise would not be allowed or would be prohibited by the terms of this chapter.

[b] No such use variance shall be granted by the Zoning Board of Appeals without a showing by the applicant that the applicable regulations and restrictions imposed by this chapter have caused unnecessary hardship. In order to prove such unnecessary hardship, the applicant shall demonstrate to the Zoning Board of Appeals compliance with each of the following criteria:

[i] That under the applicable regulations and restrictions imposed by this chapter, the applicant is deprived of all economic use and benefit from the property in question, which deprivation must be established by competent financial evidence.

[ii] That the alleged hardship relating to the property in question is unique and does not apply to a substantial portion of the district or neighborhood.

[iii] That the requested use variance, if granted, will not alter the essential character of the district or neighborhood.

[iv] That the alleged hardship has not been self-created.

[c] The Zoning Board of Appeals, in the granting of a use variance, shall grant the minimum variance that is deemed necessary and adequate to address the unnecessary hardship proven by the applicant and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

[2] Area variances.

[a] The Zoning Board of Appeals, upon appeal from the decision or determination of the Zoning Administrator, shall have the power to grant area variances from the area or dimensional requirements of this chapter as found in the Schedule of Area and Bulk Requirements.<sup>1</sup>

[b] In making its determination, the Zoning Board of Appeals shall take into consideration the benefit to the applicant if the area variance is granted, as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such granting of variance. In making such determination, the Zoning Board of Appeals shall also consider each of the following factors:

[i] Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance.

[ii] Whether the benefit sought by the applicant can be achieved by some other method feasible for the applicant to pursue, other than an area variance.

[iii] Whether the requested area variance is substantial.

[iv] Whether granting of the proposed area variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or zoning district.

[v] Whether the alleged difficulty was self-created, which consideration shall be relevant to the decision of the Zoning Board of Appeals but shall not necessarily preclude the granting of the area variance.

[c] The Zoning Board of Appeals, in the granting of an area variance, shall grant the minimum variance that it shall deem necessary and adequate and at the same time preserve and protect the character of the neighborhood and the health, safety and welfare of the community.

**SECTION 5.           SUPERSESSON.**

It is the intent of the Town Board to supersede any provisions of the New York State Law to the extent that they may be inconsistent with the provisions of this local law, pursuant to the Town's supersession authority under Municipal Home Rule Law § 10. The Town Board acknowledges that the provisions for alternate members prescribed herein differ from those in Town Law §§ 267 and 271 and the Town Board exercises its authority to supersede those provisions.

**SECTION 6.           SEVERABILITY.**

If any provision of this local law is held invalid for any reason by a court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this local law.

**SECTION 7.           EFFECTIVE DATE.**

This Local Law shall become effective immediately upon its filing in the Office of the New York State Department of State.