

**TOWN OF SPAFFORD
LOCAL LAW NO. 2 OF 2016**

A LOCAL LAW TO AMEND THE ZONING CODE OF THE TOWN OF SPAFFORD

Be it enacted by the Town Board of the Town of Spafford as follows:

SECTION 1: Legislative Purpose and Intent

The purpose of this Local Law is to amend the Zoning Code of the Town of Spafford in a manner that preserves the health, safety and welfare of the Town.

SECTION 2: Authority

This local law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law §10.

SECTION 3: Amendments to Article I, Title, Intent, and Definitions, Section 1-5 Word Usage, Definitions:

Section 1-5 of the Zoning Code of the Town of Spafford is hereby amended to insert, alter, or remove the definitions of the following terms.

Accessory Structure

A detached structure incidental to the principal building that is on the same lot as the principal building. For example, a garage or shed.

Accessory Use

An accessory use is a use that is incidental to and customarily found in connection with the principal use. An accessory use must be conducted on the same zoning lot as the principal use to which it is related, unless the district regulations permit another location for the accessory use. (Off-site accessory parking facilities, for example, are permitted in certain zoning districts).

Bed and Breakfast

A type of home occupation in an owner-occupied, single family residence offering overnight lodging for guests or tourists and may include dining facilities that are limited only to the overnight guests.

Building Height

The vertical distance as measured from the average elevation of the proposed finished grade to the average height of the highest roof surface.

Cabana

An accessory building designed to be a recreational support facility. A Cabana shall not be used for habitation.

Commercial Lodging Establishment

A motel, hotel, inn, or similar establishment that provides lodging to the public for pay.

Easement

An agreement between a private landowner and a municipal agency, a qualified not-for-profit corporation, or another private landowner to restrict development, management, or use of the land.

Inn

A commercial dwelling or establishment that provides lodging, meals, and other guests services, etc., for the public, especially travelers; a small hotel.

Library

A public or private institution maintaining a selection of books, records, and similar media for use by the general public or membership, and may include meeting or lecture rooms, but shall exclude businesses which rent books, records, videotapes, videodiscs, athletic equipment or similar objects for compensation or profit.

Lodge of Private Club

An organization catering exclusively to members and their guests for recreational, athletic or social purposes which are not conducted primarily for gain, providing that there are not any vending stands, merchandising or commercial activities except as required generally for the membership and purposes of such club.

Lot Orientation

The orientation of lot shall be determined as follows. The front property line of a lot shall be same as the street right-of-way line, regardless of length and intended orientation of existing or proposed buildings, and the side and rear lines shall be determined relative to that front line. For corner, reverse-frontage and flag lots, see applicable definitions. For all other irregularly shaped lots, the lot orientation shall be determined by the Town of Spafford Planning Board.

[Personal Service Establishments: DELETED]

Retail Store, Large

A business more than five thousand (5,000) square feet in gross floor area that sells goods, articles or consumer services directly to the consumer.

Retail Store, Small

A business less than five thousand (5,000) square feet in gross floor area that sells goods, articles or consumer services individually or in small quantities directly to the consumer.

Roomer, Boarder, Lodger

A person occupying any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes, and paying compensation for lodging or board and lodging by prearrangement for a week or more at a time to an owner or operator.

Temporary Rental

The rental of a one family or two family dwelling by the owner/occupant of the dwelling for a term not to exceed 180 days.

School

A public or private institution providing a curriculum of elementary and secondary academic instruction and includes a kindergarten, elementary middle and high school. It excludes vocational, trade, or boarding schools, colleges or the offering of group instruction within a residence.

Shed

A small enclosed building used for storage, and not intended for habitation.

Special Use Permit

A permit provided by the Planning Board for a use that is not permitted in a district as-of-right but is listed as requiring a special use permit. See Article VIII.

SECTION 4: Amendments to Article II, Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code; Section 2-10, Fire Safety and Property Maintenance Inspections

Section 2-10, Fire Safety and Property Maintenance Inspections, subsection (C), Fees is hereby amended to state:

“The fee specified in or determined in accordance with the provisions set forth in Section 2-15 (fees) of this Local Law must be paid at the time of submission of an application for a Certificate of Occupancy / Certificate of Compliance.”

SECTION 5: Amendments to Article III, Boards; Section 3-1, Establishment, Membership, and Procedures of the Zoning Board of Appeals

Section 3-1, Establishment, Membership and Procedures of the Zoning Board of Appeals is hereby amended to delete subsection D(1)(b), which states:

“Attendance. Each Board member shall be required to attend a minimum of seventy-five (75) percent of all scheduled meetings.”

Section 3-1, Subsection (D) shall hereinafter read as follows:

D. Removal of Zoning Board Members

The Town Board shall have the power to remove any member of the Zoning Board of Appeals for cause or for noncompliance with the minimum requirements set forth below.

1. Each board member shall be required to comply with the following minimum requirements. At the discretion of the remaining members or the Town Board, failure to comply with this requirement is grounds for recommending removal from the Board.
 - a. Training. Each Board member is required to complete a minimum of four (4) hours of training per calendar year in accordance with New York State Town Law § 267-7a.

Section 3-1, Subsection (E) is hereby amended to read as follows:

E. Notice of hearings

Upon filing with the Zoning Board of Appeals of an application for a zoning variance or appeal from alleged error of the Code Enforcement Officer the Board shall fix a reasonable time and place for a public hearing thereon and give notice as required by State Law. (See New York State Town Law § 267a.)

SECTION 6: Amendment to Article III, Boards; Section 3-2 Powers and duties of the Zoning Board of Appeals and Section 3-3, Appeals

Section 3-2 is hereby amended to remove the power and responsibility of considering, reviewing, and issuing special use permits from the Zoning Board of Appeals. Section 3-2(C), Special Use Permits, and Section 3-3(B)(4) are hereby deleted from the Zoning Code.

SECTION 7: Amendments to Article III, Boards; Section 3-4, Establishment, Membership, and Procedures of the Planning Board

Section 3-4, Subsection (C)(4) shall hereinafter read as follows:

- (4) Special Use Permit Applications Applications for special use permits shall include a completed special use permit application with all information required therein and a statement along with any supporting evidence regarding the merits of the proposed use at the proposed location and how the proposal complies with the general specific requirements of this Law. All applications shall comply in all respects with the provisions of Article VIII regarding special use permits.

Section 3-4, Establishment, Membership and Procedures of the Planning Board is hereby amended to delete subsection D(1)(b), which states:

“Attendance. Each Board member shall be required to attend a minimum of seventy-five (75) percent of all scheduled meetings.”

Section 3-4, Subsection (D) shall hereinafter read as follows:

“D. Removal of Planning Board Members

The Town Board shall have the power to remove any member of the Planning Board for cause or for noncompliance with the minimum requirements set forth below.

1. Each board member shall be required to comply with the following minimum requirements. At the discretion of the remaining members or the Town Board, failure to comply with this requirement is grounds for recommending removal from the Board.
 - a. Training. Each Board member is required to complete a minimum of four (4) hours of training per calendar year in accordance with New York State Town Law § 267-7a.”

SECTION 8: Amendments to Article III, Boards; Section 3-5 Powers and Duties of the Planning Board

Section 3-5, Powers and Duties of the Planning Board, is hereby amended to read as follows:

“The Planning Board shall have the power and duty to consider and may approve preliminary and final subdivision plats showing lots, blocks or sites, as specified in the Town’s Subdivision Regulations. The Planning Board shall also have the power and duty to consider and may approve site plans and shall have the authority to hear and decide all applications for a special use permit.”

SECTION 9: Amendments to Article IV, Violations; Section 4-2 Fines and Penalties

Section 4-2, Fines and Penalties, is hereby amended to read as follows:

“Except as otherwise set forth in this Code, any violation of this Code shall constitute an offense, punishable by a fine of up to \$250.00 per day, or imprisonment of up to six (6) months, or both. Each day for which such violation occurs shall constitute a separate offense. In addition, the Town may pursue such other remedies as provided by law to abate any violation.”

SECTION 10: Amendments to Article VI, Zoning District Regulations, Sections 6-1, 6-2, and 6-3

Sections 6-1, 6-2, and 6-3 are hereby amended to include the following provisions:

6-1 Residential/Agricultural District

B. Permitted Uses

(8) Temporary Rental

C. Special Use Permit

(29) Solar Energy Conversion Systems (Pole Mounted)

6-2 Otisco Lake District

B. Permitted Uses

(12) Temporary Rental

C. Special Use Permit

(5) Solar Energy Conversion Systems (Pole Mounted)

6-3 Skaneateles Lake District

B. Permitted Uses

(12) Temporary Rental

C. Special Use Permit

(5) Solar Energy Conversion Systems (Pole Mounted)

SECTION 11: Amendment to Article VII, Regulations Applicable to All Zoning Districts

The following is hereby inserted into Article VII as Section 7-1. All other Sections are renumbered accordingly.

- A. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.
- B. No building or structure shall hereafter be erected or altered to exceed the height; to accommodate or house a greater number of dwelling units; to occupy a greater percentage of lot area; or to have narrower or smaller rear yards, front yards, side

yards or other open spaces than are herein specified for the district in which it is located or in regulations applicable to all districts.

- C. No part of a yard or open space required about any building or structure for the purpose of complying with this code shall be included as part of a yard or open space similarly required for another building or structure.
- D. Uses not permitted. All uses not specifically permitted in a district by right or permitted upon issuance of a site plan or special permit approval shall be deemed prohibited in that district. A use not clearly addressed by this code may have its status determined by an interpretation of the Zoning Board of Appeals, or may be added to the Zoning Code by adoption of a text amendment by the Town Board.
- E. Existing buildings and uses. This code shall not apply to an existing building or structure, nor to the existing use of any building, structure or land to the extent it was legally established or legally sued at the time of enactment of this code. The terms of this code shall apply to any subsequent change in use alterations, extension or movement of a building or structure and to any change in use of land.
- F. Types of zoning reviews. For purposes of general understanding, a permitted use of structure is allowed in a zone district and does not require discretionary review or approval by any Town board. Permitted uses may require a building permit or certificate of occupancy for certain activities. A variance is a waiver of the applicable use or dimensional controls and requires Zoning Board of Appeals approval. Site plan or special permit reviews are for uses or structure which are allowed, but, due to their nature, necessitate discretionary Board review; such review includes but is not limited to elements of size, site design, intensity or use and character.
- G. Changes in use (changes in land use). Properties and structures are anticipated by this code to periodically change. Changes in ownership or simple occupancy will not normally require Zoning Code review or approval if there are no accompanying physical changes and if there are no changes in land use. A change in land use is a change from one land use to another as defined in this code. (Examples include: a retail store changed to an office, a warehouse changed to a wholesale use.) Changes in land use require review and approval as required by this code as if there was new or modified construction.

Section 7-20: Greenhouses is hereby moved to Section 7-13. The remainder of the sections shall be renumbered accordingly.

Section 7-11(A)(2), which states “Accessory buildings and uses are not permitted in front yards with the exception of signs, off-street parking facilities and farm stands” is hereby removed.

Section 7-24 is hereby amended to read:

“A single wide manufactured home shall not be located in close proximity to established subdivisions or neighborhoods within the RA District that are comprised primarily of non-manufactured homes, included, but not limited to, the following:

Tracey Drive; Singing Woods; Locust Lane; Bockes Road, the Bacon Hill HOA; and Pine Grove Road.”

SECTION 12: Amendment to Article VIII, Regulations Applicable to Special Use Permits

Article VIII, Regulations Applicable to Special Use Permits is hereby amended to provide the Planning Board with all power and responsibility to consider, review, and issue special use permits. Accordingly, all references to the “Zoning Board of Appeals” in Article VII shall hereinafter be removed and replaced with the “Planning Board.”

SECTION 13: Amendment to Article IX: Non-Conforming Structures, Uses, Buildings, and Lots

Section 9-2 is hereby amended to read:

9-2 Alteration and Extension

- A. A structure, use or lot that does not conform to the regulations of this Law shall not be altered, reconstructed, extended or enlarged, except in accordance with the following provisions.
 - 1. Such alteration or extension shall be permitted only upon the same lot as in existence at the date of the structure or use became nonconforming.
 - 2. Any increase in square footage, volume, area or extent of the nonconforming structure(s) or use shall not exceed an aggregate of more than 25% in the RA District or more than 10% in the OL and SL Districts during the life of the nonconformity.
 - 3. An alteration, reconstruction, extension or enlargement of any structure shall comply with all setback requirements for that particular district.

SECTION 14: Amendment to Article XIV, Site Plan Review and Approval

Article XIV is hereby amended to replace the “Town Board” with the “Planning Board” to fulfill responsibilities for Site Plan Review as designated in Article III, Boards.

Section 14-13 is hereby amended to read:

“Whenever the particular circumstances of a proposed development require compliance with either the special use permit procedure pursuant to Article VII of this Code or the Town’s subdivision regulations, the Planning Board and the Zoning Board of Appeals shall attempt to integrate, as appropriate, Site Plan Review as required by this section with the procedural and submission requirements for such other compliance.”

SECTION 15: Amendment to Appendices, Bulk Use Tables

“Pool” is hereby added to a list of permitted uses in the R/A district.

“Solar Energy Conversion Systems” is hereby added to the list of uses permitted by Special Use Permit.

It is hereby required that “Commercial Dog Kennels” undergo a Site Plan Review.

SECTION 16: Editorial Changes to the Zoning Law

The word “which” is hereby replaced with the word “that” where grammatically appropriate.

The word “principle” is hereby replaced with the word “principal” where grammatically appropriate.

SECTION 17: Severability

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this Local Law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law.

SECTION 18: Effective Date

This Local Law shall be effective upon filing with the office of the Secretary of State.