

NEW YORK STATE DEPARTMENT OF STATE  
41 STATE STREET  
ALBANY, NY 12231

4-12-22

**Local Law Filing**

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

Town of WAPPINGER

**Local Law No. 5 of the year 2022**

**A local law** entitled "A Local Law for the Purpose of Amending Chapter 240, Zoning, Chapter 210, Solid Waste, and Chapter 217, Subdivision of Land, of the Town Code with Respect to a Variety of Matters."

**Be it enacted by the** TOWN BOARD **of the Town of** WAPPINGER **as follows:**

TEXT COMMENCES ON NEXT PAGE

**(If additional space is needed, attach pages the same size as this sheet, and number each.)**

## LOCAL LAW No. 5 OF THE YEAR 2022

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

### **Section 1.     Title**

This Local Law shall be known and cited as “Local Law No. 5 of 2022, for the Purpose of Amending Chapter 240, Zoning, Chapter 210, Solid Waste, and Chapter 217, Subdivision of Land, of the Town Code with Respect to a Variety of Matters.”

### **Section 2.     Legislative Intent**

The Town Board believes that it is reasonable and appropriate to amend Chapter 240, Zoning, Chapter 210, Solid Waste, and Chapter 217, Subdivision of Land, of the Town Code with respect to a variety of matters. This local law is determined to be an exercise of the police powers of the Town to protect the public health, safety and welfare of its residents.

### **Section 3.     Amendments to Chapter 240, Zoning**

#### **1.     A new Section 240-55.G shall be added and shall read as follows:**

- G.     All farm animals shall be enclosed with fencing which is of such design so as to keep all animals contained within the fenced enclosure.

#### **2.     Section 240-36.4 shall be amended to read as follows:**

§ 240-36.4 Outdoor storage.

In the residential zoning districts, the outdoor storage of lawn-mowing and yard equipment, tractors, materials, debris, garbage and refuse, whether contained or not, is prohibited between the dwelling and any street line, except that garbage and refuse if properly contained in authorized private receptacles pursuant to §§ 210-12 and 210-14C of this Code are permitted along the street line, but only on days in which such garbage and refuse is collected, twenty four (24) hours prior to that day, and twenty four (24) hours after that day. Exempt from this prohibition are seasonal decorations, lawn ornaments, picnic/patio/lawn tables and chairs, and customary lawn games. Swing sets shall not be permitted between the dwelling and any street line.

**3. Section 240-23 shall be amended to read as follows:**

**§ 240-23 Exterior lighting.**

- A. Intent and purpose. The intent and purpose of this section is to provide standards for outdoor lighting in order to maintain and protect the scenic and aesthetic character of the Town; to encourage conservation of energy while providing safety, utility and security; to minimize glare; to avoid impacts on and to protect the privacy of nearby residences; to reduce atmospheric light pollution; to ensure that development fits into its surroundings rather than being superimposed upon the existing environment; and to enhance the Town's nighttime ambience and character. The following standards shall apply to all of the zoning districts in the Town.
- B. All exterior lighting. All exterior lighting in connection with all buildings, signs or other uses shall be directed away from adjoining streets and properties, and shall have such shielding as will prevent unreasonable or objectionable glare observable from such streets or properties. All fixtures shall be downlit, full cut-off, and dark-sky compliant as identified and updated by the International Dark-sky Association.
- C. ATM lighting. Unless accessory to a bank, all ATM banking machines shall be installed indoors so that the New York State ATM Safety Act design requirements shall not be applicable. The Planning Board remains responsible for ensuring that outdoor ATM banking machines accessory to a bank do not cause glare or other unwanted light spillage affecting residential areas and uses.
- D. Hours of lighting. Hours of lighting may be limited by the Planning Board in acting on any site development plan. All nonessential lighting shall be turned off after business hours, leaving only the necessary lighting for site security, which shall be reduced to the minimum level necessary. "Nonessential lighting" applies to display, aesthetic, parking and sign lighting. Motion-sensor security lighting may be used to promote safety and reduce the amount of night lighting in the Town, as determined by the Planning Board.
- E. Intensity of lighting. No use shall produce glare so as to cause illumination beyond the property on which it is located in excess of 0.0 footcandles or lumens at the property line. Parking lots shall have an average lighting level at or below one footcandle. High-security areas shall have lighting levels of no more than five footcandles, and two to five footcandles is the suitable range. Footcandle levels greater than 5.0 are considered excessive and shall be avoided.
- F. Pole heights. In all districts, the maximum pole height for any exterior light fixture shall not exceed 15 feet as measured from the ground

- G. Lighting plan specifications. A photometric lighting plan shall be provided for all proposed lighting or for the retro-fitting of existing light fixtures with Light Emitting Diode (LED) fixtures. The photometric plan shall provide specifications for all lighting proposed. The color temperature of all LED lighting shall be 3,000 Kelvin (K) or less. The lighting specifications shall also include Backlight, Uplight and Glare (BUG) ratings for all proposed fixtures.
- H. Adjustment of lighting levels. The Planning Board may require that dimmers be installed on a site's lighting, in which case the Zoning Administrator shall have ongoing jurisdiction over the site's lighting and the authority to require that the property's owner or operator lessen the illumination of the site if the Zoning Administrator finds that the site is not in compliance with its approved site plan and/or is otherwise inconsistent with the intent, purposes or other standards of this section.
- I. Gas stations. The standards contained in this section shall apply to all uses in the Town, including gas stations. In approving a lighting plan for a gas station, the Planning Board shall take into account the context of the gas station and its relationship to all residential development which has a view of the gas station in order to reasonably minimize adverse visual impact of the gas station on said residential development. The Planning Board shall also consider the context of the surrounding land uses and the anticipated future surrounding land uses when determining the appropriate lighting level of the gas station. Island canopy ceiling fixtures shall be recessed into the canopy ceiling so that the bottom of the fixture is flush with the ceiling. Any illuminated part of the canopy other than the underside lighting shall be considered to be part of the total amount of permitted site signage.
- J. Prohibitions. The following forms of lighting are prohibited:
- (1) Uplighting is prohibited, with the exception of flags, as defined herein. Externally lit signs, displays, buildings, structures, streets, parking areas, recreational areas, landscaping and other objects lit for aesthetic or other purposes shall be lit from the top and shine downward.
  - (2) Roof-mounted area lighting.
  - (3) Laser lighting for outdoor advertising or entertainment.
  - (4) The use of and the operation of searchlights for advertising purposes.
  - (5) Floodlights and unshielded wallpack-type fixtures.
  - (6) Neon roping or trimming.

K. Maintenance. Lighting fixtures shall be maintained so that they always meet the requirements of this section.

L. Waivers. The Planning Board may waive the lighting requirements of § 240-23 in cases where the Planning Board determines that better site design or safety can be achieved with lighting that does not comply with Section said section.

**4. Section 240-30.B shall be revised to read as follows:**

B. No more than two accessory buildings shall be permitted in any 1-Family Residence District. No such accessory building shall have a footprint greater than 600 square feet nor a height in excess of 20 feet, except that for lots of 40,000 square feet or larger, one of the two accessory buildings may exceed 600 square feet to a maximum of 1,200 square feet in accordance with the following table:

<b>Lot Size (at least)</b>	<b><u>Maximum Size of One Accessory Building (sq. ft.)</u></b>
40,000 sq. ft.	800
80,000 sq. ft.	900
3 acres	1,000
4 acres	1,100
5 acres	1,200

**5. Section 240-21.F shall be revised to read as follows:**

F. Fences, walls and retaining walls.

(1) In the residential zoning districts, the maximum height of any fence, wall or retaining wall is six feet in height, except that fences, walls and retaining walls along street frontages shall not exceed four feet in height, and except as otherwise set forth in this section. No fence shall be erected in such location or manner as to obstruct adequate sight distances for drivers, bicyclists or pedestrians. Fences shall generally be set back 12 feet from the front property line or edge of roadway pavement; however, the placement and height of the fence shall be at the sole discretion of the Zoning Administrator based upon safety concerns for drivers, bicyclists and pedestrians. Such placement and height shall also be subject to § 217-25.E of this chapter.

(2) In the nonresidential zoning districts the Planning Board may allow a fence in excess of six feet but not exceeding 12 feet above adjoining grade, provided

that the Board finds such fence necessary and appropriate for safety and/or security purposes. Any fence exceeding six feet in height shall be designed by a licensed professional engineer, architect or landscape architect. A building permit shall be required for the construction of such fence, and a certificate of compliance or certificate of occupancy, as applicable, shall be issued upon completion of the fence and submission to the Town of a certification by said licensed professional that the fence was constructed in accordance with said professional's design.

- (3) All walls and retaining walls which are four feet in height or higher shall be designed by a licensed professional engineer, architect or landscape architect. A building permit shall be required for the construction of such wall or retaining wall, and a certificate of compliance or certificate of occupancy, as applicable, shall be issued upon completion of the wall or retaining wall and submission to the Town of a certification by said licensed professional that the wall or retaining wall was constructed in accordance with said professional's design.

#### **Section 4. Amendments to Chapter 210, Solid Waste**

##### **1. Section 210-14.C shall be amended to read as follows:**

- C. Required number and type of receptacles. Every person who is an owner, lessee or occupant of any residence, building, premises or place of business within the Town shall provide or cause to be provided and at all times keep suitable and sufficient authorized private receptacles for receiving and containing garbage or refuse that may accumulate or be used upon said premises. No such receptacle shall be kept near any public place, including roadways, longer than may be necessary for the removal of the contents thereof. Within the same day that receptacles have been emptied by the carter, including twenty four (24) hours prior to the day of collection and twenty four (24) hours after the day of collection, they shall be relocated and stored no closer than 20 feet from the front lot line or edge of roadway pavement. All receptacles used for the reception of garbage or refuse shall be provided with proper covers, and such receptacles shall at all times be securely closed and watertight.

##### **2. Section 210-12 shall be amended to read as follows:**

###### **Authorized Private Receptacle**

A litter storage and collection receptacle of steel, aluminum or plastic of up to 96 gallons' capacity with tight cover or larger steel container with closed lid.

**Section 5. Amendments to Chapter 217, Subdivision of Land**

**Section 217-25.E shall be amended to read as follows:**

- E. Sight easements. Sight easements shall be provided across all street corners, outside the street corners, outside the street right-of-way, within the triangular area formed by the nearest edges of street pavement and a straight line between two points at a minimum of 40 feet back from the theoretical intersection of the edge of such pavement prolonged. The easements shall provide that these areas be kept free of anything that would obstruct a clear line of sight, and that the holder of fee title to the abutting streets shall have the right to enter the easement area for the purpose of removing anything obstructing a clear line of sight and for clearing, pruning or regrading so as to maintain a clear line of sight in either direction across such triangular area between an observer's eye 3.5 feet above the pavement surface on one street and an object one foot above the pavement surface on the other. The initial establishment of clear sight lines within the sight easement area shall be the responsibility of the subdivider.

**Section 6. Ratification, Readoption and Confirmation**

Except as specifically modified by the amendments contained herein, the Code of the Town of Wappinger as adopted and amended from time to time thereafter is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

**Section 7. Numbering for Codification**

It is the intention of the Town of Wappinger and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Town of Wappinger; that the sections and sub-sections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

**Section 8. Separability**

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity, or unconstitutionality, or inapplicability, shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their application to other persons or circumstances. It is hereby declared to be the legislative intent of the Town Board of the Town of Wappinger that this Local Law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not

been included therein, and if such person or circumstance to which the Local Law or part thereof is held inapplicable had been specifically exempt therefrom.

**Section 9.**      **Effective Date**

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by the Municipal Home Rule Law.