

Town of Pine Plains

Local Law No. _____ of 2015

A Local Law to enact certain amendments to the Zoning Law of the Town of Pine Plains, enacted on October 15, 2009.

SECTION I. TITLE.

This local law shall be known as “A Local Law Enacting Certain Zoning Amendments to the Zoning Local Law of the Town of Pine Plains”.

SECTION II. AUTHORITY.

This Local Law is enacted pursuant to the authority of Municipal Home Rule Law 10, the New York State Town law, and in accordance with Chapter 100, Article XVII, Amendments. To the extent that the provisions of this Local Law are in conflict with Section 278 of the New York State Town law, the Town Board hereby asserts its intention to supersede Section 278 pursuant to Home Rule Law.

SECTION III. PURPOSE AND FINDINGS.

In 2009, the Town of Pine Plains enacted its first comprehensive zoning local law. After having over five (5) years to utilize the provisions of the zoning local law, the Town has developed a list of revisions which are intended to further its purposes consistent with the Town’s adopted Comprehensive Plan, add certainty to the procedural review process, and reduce ambiguities in the substantive provisions of the zoning local law.

SECTION IV. REVISIONS TO ZONING LAW OF THE TOWN OF PINE PLAINS, ENACTED OCTOBER 15, 2009.

The Zoning Law of the Town of Pine Plains is hereby amended as follows:

- 1. Principal buildings.** Amend Section 100-17.C(1) to add the following after the words “Zoning Law”:

“and this section “C””

- 2. Principal buildings table.** Delete the table in Section 100-17.C(3), and replace it with the following table:

Zoning District	Maximum Building Footprint – Nonresidential and Mixed Use	Maximum Gross Floor Area	Multiple Uses Permitted in Principal Building
H-BUS	6,000 square feet; more than one building is allowed	12,000 square feet	In the H-BUS district, more than one principal use is

	<p>on an individual lot.</p> <p>At the discretion of the Planning Board, exceptions may be made if the facades of larger buildings are articulated to appear as multiple buildings, each with a maximum building footprint of 6,000 square feet.</p>		<p>allowed within a principal building. Buildings can be designed for multiple uses, with offices and/or residential units on upper stories.</p>
H-MS	6,000 square feet; more than one building is allowed on an individual lot.	12,000 square feet	In the H-MS district, more than one principal use is allowed within a principal building. Buildings can be designed for multiple uses, with offices and/or residential units on upper stories.
H-CR, H-R, H-B, H-PC	5,000 square feet	Not applicable	Not applicable
R	12,000 square feet	12,000 square feet	Not applicable

3. **Principal buildings.** Amend Section 100-17.C(4) to delete the phrase “Space between” and add the following in place of same:

“Bulk requirements for multiple”

4. **Accessory uses and structures.** Delete the existing Section 100-19.B(4) and replace it with the following new Section 100-19.B(4):

“(4) In a hamlet district, the building footprint of a structure accessory to a residential use shall not exceed 1,200 square feet.”

5. **Fences and walls.** Add the following new subsection “(5)” at the end of Section 100-19.C:

“(5) Where an applicant proposes to repair, alter or add to a fence legally in existence prior to the effective date of this Zoning Law, which repair, alteration or addition involves no more than 50 percent of the length of the entire fence, and said repair or alteration is being installed in a manner which matches the height and design of the existing fence, the CEO is authorized to issue a building permit where the fence does not comply with the requirements set forth in (1), (2), or (3) above, provided he finds that issuance of the permit will not result in any health or safety hazard.”

6. Storage in yards. Add the following new subsection “G” to Section 100-19., Accessory uses and structures:

“G. Storage in yards.

- (1) Wood piles and wood pile storage is not permitted in any required front yard within a Hamlet District.
- (2) Temporary storage containers and dumpsters. Containers, including but not limited to moving, shipping, portable and storage containers, trailers, dumpsters, and similar structures, are not permitted on any property in the Town of Pine Plains for more than seven (7) successive days except in accordance with the following standards:
 - (a) Containers are allowed only upon issuance of a temporary permit from the ZEO for a time period not to exceed six (6) months. The ZEO may extend the permit for up to two additional time periods of no more than three (3) months each where the owner demonstrates a continuing need for temporary storage, e.g., home construction and repair or similar circumstance.
 - (b) Containers shall be used only for the temporary storage of goods in the ownership or used by the occupants of the lot upon which the container is located.
 - (c) The ZEO shall prohibit any type of storage which the ZEO deems is hazardous or flammable. The general contents of the storage container shall be described in the temporary permit application.
 - (d) The container shall not be stored in any required yard unless the ZEO determines there is no other reasonable location to store said container.

- (e) This section shall not apply to storage containers stored on a property conducting an agricultural operation and used for agricultural purposes.”

7. Dumpsters and trash containers. Add the following new subsection “H” to Section 100-19., Accessory uses and structures:

“H. Dumpsters and trash containers.

- (1) All properties within the Town of Pine Plains shall be kept free of litter and debris, and shall maintain trash receptacles and containers on-site. Trash receptacles and dumpsters shall remain closed at all times, and designed so as to prevent the release of refuse or other materials stored therein.
- (2) Except for a temporary dumpster which may be allowed in accordance with 100-18.G.(2), and refuse containers associated with a single-family or two-family dwelling, all permanent dumpsters and refuse areas associated with any other use shall be screened from view with a six foot high opaque fence, or year-round vegetative screening no less than six (6) feet high at the time of planting.
- (3) After the effective date of this Zoning Law, a permanent dumpster or trash container with a capacity of three (3) cubic yards and greater shall be installed only on a site with a principal use which has received site plan or special use permit approval. These provisions shall not apply to any container associated with an agricultural operation and used for agricultural purposes.
- (4) No dumpster or similar container shall be located within twenty-five (25) feet of an adjoining residential property or residential building.”

8. Agricultural uses. Delete the existing subsection 100-20.D(3) regarding site plan approval, and replace it with the following subsection “(3)”:

- “(3) Site plan approval is not required for the installation of buildings or uses strictly associated with the growing of crops or raising of animals or storage of farm machinery. Multiple residence dwellings for farm worker housing, and buildings constructed for use by or open to the public or guests visiting the property such as tasting rooms, distilleries, wineries, farm markets, and similar buildings and uses shall be subject to site plan approval. The ZEO shall determine whether a proposed use or building requires site plan approval before issuing a building permit.”

9. **Manufactured homes.** Section 100-21.B(3) shall be revised to delete subsection (d) and replace it with the following subsection (d):

“(d) A manufactured home shall have a minimum size of 720 square feet and a minimum width of 14 feet at the time it is installed.”

10. **Manufactured homes.** Section 100-21.B(3) shall be revised to add the following new subsection (i):

“(i) The pitch of the main roof shall not be less than one (1) foot of rise for each four (4) feet of horizontal run. Any roofing material may be used that is generally acceptable for site built housing if such material is applied in such a manner as to be similar in appearance.”

11. **Affordable housing - Applicability.** The example calculation in Section 100-23.C shall be deleted and replaced with the following new example:

“Example: An applicant proposes a subdivision or site plan of ten dwellings and/or lots

Affordable Housing Obligation = 10 dwellings/lots x 10 percent = 1 dwelling/lot

Initial Buildout is 9 dwellings/lots + 1 affordable dwellings/lot

Market Rate Density Bonus = 10 dwellings/lots x 10 percent bonus = 1 market rate dwelling/lot

Final Buildout = 10 dwellings/lots which includes 1 affordable dwelling/lot, + 1 market rate dwelling/lot = 11 dwellings/lots”

12. **Affordable housing – Affordable housing fee.** The following sentence shall be added after the first sentence in Section 100-23E.:

“The fee shall be calculated using the “construction cost approach” set forth in the “Town of Pine Plains Affordable Housing Task Force Report to the Town of Pine Plains Town Board” (April 2012).”

13. **Affordable housing – Affordable housing fee.** The following sentence and example shall be added at the end of Section 100-23E.:

“A sample calculation of the buildout with a payment in lieu of housing is as follows:

Example: An applicant proposes a subdivision or site plan of ten dwellings/lots

Affordable Housing Obligation = 10 dwellings/lots x 10 percent = 1 dwelling/lot

Initial Buildout is 9 dwellings/lots + 1 affordable dwelling/lot

Market Rate Density Bonus = 10 dwellings/lots x 10 percent bonus = 1 market rate dwelling/lot

Applicants provides fee in lieu of 1 affordable dwelling/lot

Final Buildout = 9 dwellings/lots + fee in lieu of one affordable dwelling/lot + 1 market rate dwelling/lot, or 10 dwellings/lots and fee in lieu of one affordable dwelling lot”

- 14. **Affordable housing – Standards applicable to affordable dwellings.** In Section 100-23.F(3), the last sentence within subsection “(3)” shall be revised to add the phrase “and maximum” after the word “minimum”.
- 15. **Affordable housing – Standards applicable to affordable dwellings.** The following sentence and table shall be added after the last sentence of 100-23.F(10):

“The following minimum standards are hereby established:

Affordable Housing Size and Building Standards				
Building Type	Bedroom Size	Minimum Gross Square	Maximum Gross Square Footage	Number of Bathrooms
Single family attached or detached	2	1,200	1,500	1
	3	1,400	2,000	1.5
Garden Style Condominiums (owner-occupied)/Apartments (renter-occupied)	0	550	700	1
	1	650	850	1
	2	800	1000	1
	3	950	1200	1.5
Additional Design Standards:				
Note: Maximum Gross Square Footage as per Dutchess County Planning Department recommendation.				
1. All affordable housing must have a refrigerator, range and range hood, dishwasher, and complete electric and plumbing connections and a dryer exhaust for a clothes washer and dryer.				
2. The refrigerator must be at least 18 cubic feet and frost free. A 30-inch electric, porcelain enameled range/oven and range hood must be supplied.				
3. All carpeting must meet minimum Federal Housing Administration (FHA) specifications.				
4. Unit landscaping must be as designated on an approved site or subdivision plan.				
5. Shelving must be included in closets.				
6. The main bathroom must include a vanity.				
7. Affordable housing shall have full basements if market rate units have full basements.				
8. Use cement board siding or other long-lasting siding in the construction of affordable dwellings.				
9. Use Energy Star compliant windows and doors.				

- 16. **Affordable housing – Sales and rental values.** The following revisions shall be made to subsection 100-23.G(1) regarding affordable for sale dwelling:

- a. Replace “100” with “80”.
- b. Replace “Dutchess County” with “Town of Pine Plains”.

- c. Add the word “family” after the word “median”.
- 17. Affordable housing – Sales and rental values.** The following revisions shall be made to subsection 100-23.G(2)(a) regarding calculating permissible rent:
- a. Replace “household” with “family” immediately after the phrase “thirty percent (30%) of the maximum”.
 - b. Replace “100” with “60”.
 - c. Replace “Dutchess County” with “Town of Pine Plains”.
 - d. Add the word “family” before the phrase “income adjusted for bedroom size”.
- 18. Affordable housing – Applicant eligibility.** Delete the existing subsection 100-23.H(1) and replace it with the following new subsection “(1)”:
- “(1) Income eligibility. For “for sale” dwellings, a household shall be determined to be income eligible where its annual family income does not exceed 80 percent of the median family income for the Town of Pine Plains. Median family income will be calculated using the most recent estimate of median family income reported by the U.S. Census Bureau and adjusted on an annual basis to account for inflation or deflation, as the case may be, until the median family income is updated in the next U.S. Census Bureau survey. The median family income level for Pine Plains will be adjusted using the Consumer Price Index (CPI) for All Urban Consumers for the Poughkeepsie-Newburgh-Middletown Metropolitan Statistical Area (encompassing Dutchess and Orange County, NY), published by the U.S. Bureau of Labor Statistics, and adjusted based on family size using the U.S. Department of Housing and Urban Development published family size adjustment data. For rental dwellings, a family shall be determined to be income eligible where its annual family income does not exceed 60 percent of the median family income for the Town of Pine Plains for a family of four, and calculated annually as set forth above for “for sale” dwellings. The Town Board may establish by local law or resolution additional standards to ensure income eligibility.”
- 19. Screening.** Under Section 100-37., Landscaping and Screening, replace existing Section 100-37.C with the following new subsection:
- “C. Screening.
- (1) As a condition of site plan or special use permit approval, the Planning Board may require that a screen be established to minimize views of facilities, buildings, and parking areas associated with nonresidential uses from adjoining residences or the public right-of-way.

- (2) Transformers, gas meters, dumpsters (except those that may be allowed by temporary permit), and similar appurtenances associated with new uses shall be screened from view. No dumpster or trash container shall be located within twenty-five (25) feet of an adjoining residential property or building and the receptacle shall remain closed at all times, and designed to prevent the release of refuse or other materials stored therein.
- (3) Method of screening.
 - (a) Plant materials shall be no less than four (4) feet in height when planted and shall be spaced to form a continuous, solid screen at maturity. Plant materials shall be spaced at distances no greater than ten (10) feet on center.
 - (b) A wall, fence (finished side out), or earthen berm may be substituted for, or required in conjunction with, planting materials. The Planning Board shall establish conditions on the location, height, and design of same.”

20. Signs – Permit required. Replace the existing Section 100-51., Permit required, with the following new section:

“§100-51. Permit required.

No permitted sign shall be erected without a sign permit issued by the Zoning Enforcement Officer. The ZEO shall approve all sign applications, except for signs which are accessory to a use requiring special use permit approval from the Planning Board which signs shall be approved by the Planning Board. For purposes of this Article, the Planning Board and ZEO shall be referred to as the “reviewing agency”. Information to be submitted to the reviewing agency as part of the sign permit application shall include:

- A. A scale drawing of the sign showing type of sign;
- B. Dimensions, advertising content, materials, method and style of illumination;
- C. Method of structural support;
- D. Colors;
- E. Location on the land or building in relation to buildings, roadways, driveways and sidewalks,
- F. The name of the sign owner and person responsible for maintenance of the sign; and
- G. The reviewing agency may accept a hand-drawn illustration of the sign to convey the above information if deemed sufficient to make the required determinations for approval.”

- 21. Signs – Permitted signs.** Delete the existing introductory paragraph in Section 100-52.C(1), General Standards, and replace with the following:
- “(1) General Standards. The reviewing agency shall consider the following in issuing a sign permit:”
- 22. Signs – Permitted signs.** In the first sentence of Subsection 100-52.C(3) regarding freestanding signs, Delete the word “Signs” and replace with the following phrase:
- “sign standards”
- 23. Signs – Permitted signs.** In the first sentence of Subsection 100-52.C(4) regarding building signs, delete the word “Signs” and replace with the following phrase:
- “sign standards”
- 24. Signs – Sign bonus.** Delete the title and introductory paragraph of Section 100-52.D regarding sign bonus and replace it with the following paragraph:
- “**D. Optional design standards.** A sign may be increased in size if the sign meets certain additional design standards set forth herein. The reviewing agency shall make the final determination as to which design standards listed below have been met. The size of a permitted sign may be increased by the following percentages, not to exceed 20% of the permitted sign size:”
- 25. Signs – Planning Board waiver.** Delete existing Subsection 100-52.E regarding planning board waivers and replace same with the following new paragraph:
- “**E. Planning Board waiver of sign regulations.** Where a sign application does not meet the standards and requirements set forth above, an Applicant may appear before the Planning Board which may, in its discretion, grant a waiver of these sign regulations where it finds that the literal application of this Article would substantially impair the visibility of a sign resulting from site characteristics unique to the property, e.g., exceptional topographic conditions, not created by the owner or applicant, on which the sign is to be located, or where the Planning Board determines that the waiver would have a beneficial effect on the architectural or historic character of a property. Any waiver shall not be detrimental to property owners in the vicinity, shall not result in undue concentration of signs, shall not be detrimental to public health and safety, and shall not have the effect of nullifying the intent and purpose of this article or the Zoning Law. In allowing any waiver, the Planning Board may attach such conditions as are, in its judgment, necessary to secure the objectives of the standards or requirements so modified. The Planning Board is not authorized to waive the requirements establishing prohibited signs set forth in Section 100-52.B. of this Zoning Law. Upon the Planning Board’s approval of any waiver, the ZEO shall issue the sign permit.”

26. **Special use permits - Application.** Section 100-55.C regarding special use permit applications shall be revised by adding the following after the phrase “Zoning Enforcement Officer”:

"for consultation and review. Once the Zoning Enforcement Officer determines that the application contains the relevant data required for submission of a special use permit application, the application shall be forwarded to the Planning Board for its review in accordance with the provisions of this Article."

27. **Special use permits - Accessory dwelling; guest dwelling, caretaker dwelling.** Section 100-56.D(2) regarding special use permit standards for an accessory dwelling, guest dwelling, or caretaker dwelling shall be revised by adding the following new subsection “(3)”:

“(3)The Planning Board is authorized to increase the gross floor area of an accessory dwelling, guest or caretaker dwelling up to a maximum gross floor area not to exceed 75 percent of the principal dwelling. The Planning Board shall find that the waiver will not have a negative impact on adjoining properties and community character. The Planning Board shall consider the potential impact on: the pattern of residential buildings, residential density, existing lot sizes and impervious surface coverage in the neighborhood; the ability of the subject property to accommodate off-street parking and utilities; and, the decrease in open yard area that may result. The waiver must be requested prior to opening the public hearing on the special use permit.”

28. **Site plan review – Exempt uses.** Section 100-61.B regarding uses exempt from site plan review shall be revised to delete subsection “(7)” and replace it with the following new subsection “(7)”:

“(7)Any change in use of an existing building that received prior site plan approval, or was in existence on the effective date of the Zoning Law, which does not require the issuance of a new certificate of occupancy pursuant to the New York State Uniform Building and Fire Code. The ZEO shall require that the use obtain site plan approval where it is determined that there would be the following: an increase in parking or utility demand, or other change in on-site utilization which changes the overall intensity of the operations on the subject property.”

29. **Site plan review – Application fees.** Section 100-61.D entitled “Application fees” shall be renamed “Application fees and ZEO review”, and the following shall be added after the last sentence of this section “D”:

“Application for a site plan shall be submitted on forms prescribed by the Planning Board. The application shall be submitted to the Zoning Enforcement Officer for consultation and review. Once the Zoning Enforcement Officer determines that the

application contains the relevant data required for submission of a site plan application, the application shall be forwarded to the Planning Board for its review in accordance with the provisions of this Article.”

- 30. Nonconformities – Extension of a non-conforming use.** Section 100-70.B entitled “Extension of a non-conforming use” shall be revised to delete the last sentence of subsection 100-70.B(1) and replace it with the following:

“Any proposed extension that singly or cumulatively exceeds twenty-five percent (25%) of the gross floor area of the structure, but is less than 35 percent, may be allowed upon application to and approval by the Zoning Board of Appeals of an area variance for said extension and site plan approval by the Planning Board. Any proposed extension that singly or cumulatively exceeds 35 percent of the gross floor area shall require a use variance from the Zoning Board of Appeals.”

- 31. Nonconformities – Extension of a non-conforming use.** Section 100-70.B entitled “Extension of a non-conforming use” shall be revised to delete the last sentence of subsection 100-70.B(2) and replace it with the following:

“Any proposed extension that singly or cumulatively exceeds twenty-five percent (25%) of the gross floor area of the structure, but is less than 35 percent, may be allowed upon application to and approval by the Zoning Board of Appeals of an area variance for said extension and site plan approval by the Planning Board. Any proposed extension that singly or cumulatively exceeds 35 percent of the gross floor area shall require a use variance from the Zoning Board of Appeals.”

- 32. Nonconformities –Pre-existing mobile/manufactured home.** Section 100-70.C entitled “Pre-existing mobile/manufactured home” is hereby deleted.

- 33. Nonconformities –Application for special use permit.** Section 100-70.I(2) is revised to correct a reference in the first sentence, by deleted “100-20” and replacing it with “100-70”.

- 34. Zoning Board of Appeals –Procedure.** Section 100-92.D regarding public notice and hearings is revised in section (2) to delete “five hundred (500)” and replace it with “two hundred-fifty (250)”.

- 35. Definitions and subsequent sections.** Article XVIII and the subsequent remaining pages of the Zoning Law are revised to delete the header “DRAFT TOWN OF PINE PLAINS ZONING LAW” at the top of those pages.

SECTION V. SEVERABILITY.

If any word, phrase, sentence, part, section, subsection, or other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any

reason, then such word, phrase, sentence, part, section, subsection or other portion, or the proscribed Application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional or invalid, shall remain in full force and effect.

SECTION VI. CONFLICT WITH OTHER LAWS.

Where this Law differs or conflicts with other Laws, rules and regulations, unless the right to do so is pre-empted or prohibited by the County, State or federal government, the more restrictive or protective of the Town and the public shall apply.

SECTION VII. EFFECTIVE DATE.

This Law shall become effective upon filing with the New York State Secretary of State.

SECTION VIII. AUTHORITY.

This Local Law is enacted pursuant to the Municipal Home Rule Law. This Local law shall supersede the provisions of the Town Law to the extent it is inconsistent with same, and the extent permitted by the New York State Constitution, the Municipal Home Rule Law, or any other applicable statute.