

LOCAL LAW NO. 2-2013

~~%Revisions to Chapter 216 of the Village Code %Sidewalk Cafes+~~

A LOCAL LAW amending Chapter 216 of the Code of the Village of Ossining entitled ~~%Sidewalk Cafes+~~to include a provision for waiver, with reasonable conditions when appropriate, from certain requirements for setbacks from existing obstructions in the right of way.

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

Section 1. Legislative Intent. It is the intent of the Board of Trustees of the Village of Ossining to revise the Village Code to provide for a waiver by the Village Board from the setback standards set forth in Section 216-4 (B), and permit the Village to attach certain additional conditions as may be appropriate under certain circumstances, involving pre-existing or proposed obstructions in the public right of way.

Section 2. Chapter 216 of the Village Code ~~%Sidewalk Cafes+~~, Section 216-4 entitled ~~%Conditions for issuance of permit+~~is hereby amended as follows, with new matter underlined and deleted matter in [brackets]:

B. Except as otherwise provided in this Chapter, [T]there shall be a minimum clear distance, exclusive of the area occupied on the sidewalk, free and clear of obstructions, such as, but not limited to, trees, parking meters, utility poles, street lights and Village benches or planters, in order to allow for adequate pedestrian movement of four feet, and

K. An applicant for a sidewalk café permit or the holder of an existing sidewalk café permit issued by the Village Manager in accordance with this Chapter, may make an appeal to the Village Board of Trustees for a waiver from the setback requirements set forth in Section 216-4 (B) as follows: (1) the appellant shall provide an advanced written request for consideration addressed to the Board at the Village offices which request shall include at a minimum (a) a list with contact information and proof of written notice to the immediately adjacent property and business owners, (b) the rationale for the appeal including details of the constraints on the strict compliance with the setbacks, photos or illustrations if appropriate, and an explanation of any unique or unusual circumstances prohibiting strict compliance; and (c) a scaled drawing of the proposed sidewalk café which would not meet the strict setback requirements of Section 216-4 (B) it installed; (2) such appeal shall be placed on an agenda and discussed by the Village Board at a public meeting at which the appellant, having the burden of proof, shall appear to make a showing of equitable necessity for such waiver, meaning the benefit to the appellant must outweigh the detriment or impacts, if any, to the Village, neighborhood or adjacent business or property owners; and (3) the adjacent business and property owners to whom the appellant provided notice shall have an opportunity, but not a requirement, to be heard; (3) after having considered the application and comments at the public meeting, the Village Board may thereafter issue a waiver by formal resolution that may include conditions as may be reasonable under the circumstances, with such resolution setting

forth specific details as to the waiver granted from the set back requirements set forth in Section 216-B.

Section 3. Except as otherwise provided herein, all other provisions of the Code of the Village of Ossining shall remain the same.

Section 4. The provisions of this Introductory Local Law are declared to be severable, and if any section, subsection, sentence, clause or part thereof is, for any reason, held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or part of this Local Law

Section 5. This Local Law shall take effect upon the filing and publication as required by applicable law, including filing with the Secretary of State.