

Town of Spafford Local Law 2011-2:

A local law amending the Zoning Code of the Town of Spafford.

Be it enacted by the Town Board of the Town of Spafford, Onondaga County, New York as follows:

- 1) Article I, Section 1-5 is hereby amended by deleting the definition of and all references to the word “Cellar” and revising the definition of “Accessory Building” to read as follows:

Accessory Building

All buildings or structures that are not attached to the principal building and which are incidental and subordinate to the principal building.

- 2) Article III, Section 3-1(C) is hereby amended to add paragraph (4) to read as follows:

(4) The Zoning Board of Appeals Chairman shall be authorized to complete and sign any forms required to be referred or submitted to outside agencies in connection with any proceeding before the Zoning Board of Appeals.

- 3) Article IV, Section 4-2 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, or imprisonment for a period 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.

- 4) The Residential-Agricultural Bulk Use Table in the Appendix is hereby amended to revise the language for “Wind Energy Conversion System” to read as follows:

Permitted Uses	Min. Lot Size (acres)	Min. Lot Width (ft.)	Min. Setback Requirements			Max. Allowable Coverage (%)	Max. Bldg. Height (ft.)	Site Plan Review Required
			Front (ft.)	Sides (ft.)	Rear (ft.)			
Wind Energy Conversion System	n/a	See Section 8-13					60	

- 5) The Residential-Agricultural Bulk Use Table in the Appendix is hereby amended to include “Outdoor Wood Boiler” under the heading “Uses Requiring a Special Permit” to read as follows:

Permitted Uses	Min. Lot Size (acres)	Min. Lot Width (ft.)	Min. Setback Requirements			Max. Allowable Coverage (%)	Max. Bldg. Height (ft.)	Site Plan Review Required
			Front (ft.)	Sides (ft.)	Rear (ft.)			
Outdoor Wood Boiler	See Section 8-14							

6) Article IX, Section 9-2(A) is hereby amended to read as follows:

(1) Such alteration or extension shall be permitted only upon the same lot as in existence at the date the use became nonconforming.

(2) Any increase in square footage or extent of the nonconforming 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) Any alteration, reconstruction, extension or enlargement shall comply with all setback requirements for that particular district.

7) Article IX, Section 9-3(A) is hereby amended to read as follows:

The reconstructed structure shall not exceed the height or square footage of the damaged structure except as provided by Section 9-2.

8) The Zoning Code of the Town of Spafford is hereby amended to add a new Article XV concerning road preservation and safety to read as follows:

ARTICLE XV **ROAD PRESERVATION AND SAFETY**

15-1. Authority.

This article is enacted pursuant to the authority of the New York Municipal Home Rule Law, the general police power of the Town of Spafford Town Board to protect the public and promote public safety of its residents, and New York Vehicle and Traffic Law § 385(15)(b), which authorizes a town to issue permits to operate or move vehicles, the weights or dimensions of which exceed the limitations provided in said § 385, on Town roads and Town highways.

15-2. Purpose.

The purpose of this chapter is to maintain the safety and general welfare of Town of Spafford residents by regulating commercial activities that have the potential to adversely affect road right-of-ways and the safety of the public. Commercial endeavors, such as mining and natural gas drilling, have economic benefits. However, well maintained roads are important to the economic well being and community character of the Town. Accidents involving oversize or overweight vehicles present special risks, and advance notice of potentially dangerous cargo being transported over Town roads in overweight or oversize vehicles can enhance the safety of accident response. This chapter is not intended to regulate commercial activities, but rather to protect the public, and to protect public roads and road rights-of-way from damage.

15-3. Permit-Issuing Authority.

The Town Supervisor is hereby designated as the authority to receive applications for permits to operate or move a vehicle, or a combination of connected vehicles [e.g., tractor and trailer(s)], the weights or dimensions of which exceed the limitations provided in Vehicle and Traffic Law § 385, on Town roads or highways (hereinafter the "permit"), and to receive notices required by this chapter. Such permit can only be issued to applicants who are holders of valid New York State Hauling or Divisible Load Permits issued pursuant to Subpart 154-2 of Title 17

(Transportation) of the New York Code of Rules and Regulations. A valid permit must be issued prior to anyone operating such heavy vehicles in the Town.

15-4. Permit Application, Notice and Fees.

- A. The Town Supervisor is hereby authorized to promulgate form(s) for an application requesting a permit, the renewal thereof, and the permit to be issued upon review and approval of applications. Permits shall be issued for a period of one year and may be renewed upon review and approval of a renewal application.
- B. A permit shall be issued at least 10 business days in advance of the first operation of oversize or overweight vehicles on Town roads. In addition to any other information required on the permit application, the applicant shall provide, either on or attached to the permit application:
 - (1) the identity of the Town roads to be utilized and routing;
 - (2) the estimated starting and ending dates for use of Town roads;
 - (3) the estimated number of vehicles to be operated under the permit;
 - (4) a complete description of the loads to be carried by each oversize or overweight vehicles, including, without limitation, the size and weight of each loaded vehicle and the chemical compound(content) of any liquid cargo. In the event any hazardous chemicals are to be transported, the permit may require that the Town be provided with a separate advance notice of five business days for each oversize or overweight vehicle carrying such cargo. Hazardous chemicals, for the purpose of this subsection, shall be as defined in 29 CFR 1910.1200 (OSHA Hazardous Communication Standard);
 - (5) Copies of valid New York State Vehicle Registrations for Each Vehicle; and
 - (6) Copies of valid New York State Special Hauling Permits, if any, for each vehicle.
- C. The Town Supervisor, with the assistance of the Town Highway Superintendent, and any other designee, if necessary, will produce an evaluation of the Town roads named in the permit application to be used as a baseline for determining damage.
- D. The Town may impose such fees as are permitted under Vehicle and Traffic Law § 385. Fees shall be paid by the applicant at the time of application.

15-5. Damage to Town Roads.

- A. With the exception of normal wear and tear, the permittee is responsible for all damage done to the roadways, bridges, ditches, curbs, sidewalks or other improvements and to public utilities in the right-of-way as determined by the Town Supervisor. There shall be a presumption that the operation of a vehicle or combination of vehicles in excess of the maximum weight limits set by Vehicle and Traffic Law § 385 is the proximate cause of any such roadway and related damage, whether or not a permit to exceed such weight limits was issued.

- B. Upon due notice being given to a permittee and at the Town's option, the Town may request that the permittee repair all damages, or the Town may arrange the necessary repairs and charge the vehicle owner, lessees, operators, and permittee for all labor and materials at the prevailing rates. The highway shall be restored and maintained for a period of one year from the date of any repairs at the expense of the permittee responsible for the damage.

15-6. Insurance.

- A. As a prerequisite for issuance of a permit, the permittee shall present to the Town certificates of insurance evidencing the acquisition of liability insurance coverage naming the Town as an additional insured on a noncontributory basis with the minimum limits of coverage for bodily injury equal to \$1,000,000 for each person injured, \$3,000,000 for aggregate bodily injury resulting from each occurrence, and \$500,000 for property damage.
- B. Said insurance shall be maintained throughout the term of the permit and the aforementioned certificates shall provide for 30 days written notice to the Town prior to cancellation of coverage.
- C. All persons performing work under this permit are to be covered by workmen's compensation insurance and disability benefits insurance as required by New York law, and certificates evidencing the existence of such coverage shall be provided to the Town.

15-7. Maintenance Bond.

As a prerequisite for issuance of a permit, the permittee shall present to the Town a maintenance bond in the amount of \$100,000 and a bank letter of credit in the amount of \$10,000 in favor of the Town guaranteeing compliance with the provisions of the permit. The maintenance bond shall be maintained by the permittee for the duration of the permit period. At such time, if ever, that said letter of credit is expended, the permittee shall replace the same within five days' written notice of the Town, failing which the permit shall be subject to revocation.

15-8. Indemnity and Save Harmless.

The permittee, to the fullest extent permitted by law, will be required to agree to indemnify, defend, save and hold harmless the Town of Spafford and all of its departments, bureaus, divisions, boards, officers and employees from and against any and all claims, costs, damages, expenses, charges, risks, losses, lawsuits, judgments, executions, penalties, fines, assessments or any other liability of any type arising out of, occurring in connection with or resulting from any and all activity to be performed by the permittee pursuant to any permit issued under this chapter.

15-9. Stop-Work Orders.

The Code Enforcement Officer shall have the right and authority to issue stop-work orders to those operating in violation of the terms of the permit, or contrary to the permittee's application

or conditions upon which its permit was issued.

15-10. Revocation of Permit

Upon the violation of any provisions of the permit, the Town may suspend any permit issued hereunder for no more than 30 days. The Town Board shall have the authority to revoke any permit on notice to the permittee following a public hearing held no sooner than five days following publication of the notice of such hearing, at which the permittee shall have the right to appear and be heard.

15-11. Special Conditions.

- A. The permit shall not be assigned or transferred without the written consent of the Town Supervisor.
- B. The permittee shall notify the Town at least one week in advance of the date when it intends to begin the activity authorized by the permit, and shall notify the Town promptly of its completion. Upon notice of completion the Town roads designated in the permit will be assessed for damage.
- C. The permit shall remain valid only for so long as the permittee continues to hold a valid New York State Hauling or Divisible Load Permit issued pursuant to Subpart 154-2 of Title 17 (Transportation) of the New York Code of Rules and Regulations, and for so long as the permittee complies with all conditions of the Town permit.
- D. The permit shall not authorize the holder to exceed the maximum gross weight limit authorized for crossing an R-posted bridge.
- E. The following vehicles are deemed critical to providing public services and preserving and protecting the health, safety, and welfare of the residents of the Town, and are therefore exempt from the permitting process:
 - (1) Maintenance, repair and service vehicles owned and operated by the Town of Spafford or municipal corporations located in the County of Onondaga and on official County or municipal business;
 - (2) Maintenance, repair and service vehicles owned and operated by a utility company or authority and on official utility business; and
 - (3) Emergency vehicles and vehicles owned by New York or municipal corporations of New York.
- F. Nothing contained in this Chapter shall be deemed to limit the right to farm as set forth in Article 25-AA of the New York State Agricultural and Markets Law.

15-12. Violations and Penalties.

Any person who shall operate or move a vehicle or a combination of vehicles, the weights or dimensions of which exceed the limitations provided in Vehicle and Traffic Law § 385, on Town roads or highways without obtaining the permit required hereunder, or who shall refuse to make the repairs or pay the charges referenced in Subsection 15-5 herein, shall be guilty of a Class A misdemeanor, which shall be punishable by a fine not exceeding \$1,000 for each day

of such violation.

15-13. Severability.

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Spafford hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

7) This local law shall take effect immediately upon filing in the office of the New York State Secretary of State.