

March 11, 2016

TOWN OF CLARKSTOWN

LOCAL LAW NO. - 2016

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

**Section 1. Title**

A Local Law Amending the Zoning Map and Chapter 290 of the Town Code of Clarkstown Regulating Non-Residential Uses in Residential Zoning Districts

**Section 2. Legislative intent.**

The purpose of this Local Law is to amend the Zoning Map and Chapter 290 of the Town Code consistent with the following goals and objectives of the Comprehensive Plan:

1. Preserve the suburban and remaining semi-rural character of the Town.
2. Develop zoning and building regulations that reduce or restrict odors, sounds, commercial traffic, light pollution and other negative environmental impacts on residential areas.
3. Expand initiatives to safeguard neighborhoods from inappropriately scaled development.

**Section 3. Zoning Map Amendment – Replacement of RG-1 and RG-2 Zoning Districts with MF-2 and MF-3 Zoning Districts**

The following changes shall be made to the Zoning Map of the Town of Clarkstown:

All RG-1 zones shall be changed to MF-2 zones.

All RG-2 zones shall be changed to MF-3 zones.

**Section 4. Amendments to Use Tables**

The following changes shall be made to 290-11A – Use Tables:

Table 1 (R-80), Table 2 (R-40), Table 3(R-22), Table 4 (R-15), Table 5 (R-10), Table 6 (RG-1), Table 7 (RG-2), Table 18 (R-160) and Table 19 (MF-1, MF-2 and MF-3) are to be removed and replaced with the new

**Table 1 - Residential Zoning Districts Land Use (Attachment 1 of this Local Law)**

The Residential Zoning Districts Land Use shall become Table 1 and all following tables shall be renumbered accordingly.

References to the removed tables throughout the Town Code shall be altered to refer to the Residential Zoning Districts Land Use Table.

**Section 5. Addition of Residential Use Parking and Loading Table**

Add a new table, "Table 2 – Residential Zoning Districts Parking and Loading Requirements," (Attachment 2 of this Local Law).

**Section 6. Amendments to Bulk Table**

The following changes shall be made to §290-11B – Table 16, General Bulk Regulations:

Remove RG-1 and RG-2 rows from Table 16 General Bulk Regulations.

Insert CO and COS rows from Table 21, General Bulk Regulations (CO/COS District) to Table 16.

Add notes 41 thru 47 from Table 21 to Table 16, General Bulk Regulations.

Remove Table 21, General Bulk Regulations (CO/COS District) from Town Code.

Add new Group row, "N," to R-10 row, which shall read as follows:

Zone	Group	For Use listed below	Max. Floor Area Ratio	Min. Lot Area	Min. Lot Width	Required Front Yard Depth	Required Side Yard Width	Total Width Both Required Side Yards	Required Rear Yard Depth	Max. Bldg. Height in Ft. and In. per Ft. of Distance from DSL
R-10	N	Two-Family Residences (See Note No. 48)	0.20 (See Note No. 31)	15,000	100	30	25 (See Note No. 14)	50	50 (See Note No. 14)	10" (See Note No. 38)

Add Note 48, which shall read:

These uses shall have minimum frontage of 100' and access to either a State or County major or secondary road as classified on the Town Official Map.

Add Note 48 reference to R-160, Group C, Column 3; R-80, Group C, Column 3; R-40 Group F, Column 3; R-22, Group I, Column 3; R-15, Group L, Column 3 and R-10, Group N, Column 3.

Add two new columns, "12 – Maximum Principal Buildings(s) Coverage" and "13 – Maximum Total Lot Coverage" which shall read as follows:

District	Group	Column 12 Maximum Principal Buildings(s) Coverage	Column 13 Maximum Lot Coverage (including Principal Building(s) coverage)
R-160	A	2.50%	5%
	C	2.50%	5%
R-80	A	5.00%	10%
	C	5.00%	10%
R-40	D	6.00%	12%
	F	6.00%	18%
R-22	G	10.00%	20%
	I	7.00%	21%
R-15	J	11.50%	23%
	L	6.60%	20%
R-10	M	12.50%	25%
	N	10.00%	20%
	O	5.00%	15%

Change R-10 row, Group O, Column 5 value from 40,000 to 80,000.

Add the following definition, alphabetically placed, to §290-3B:

**BUILDING, PRINCIPAL:** A building in which is conducted the principal use of the lot on which it is located.

**Section 7. Additional Regulations for Multifamily Residential Uses**

Add the following definition, alphabetically placed, to §290-3B:

**MULTI-FAMILY:** See Multiple Residence.

Modify the table within §290-20F(2) adding a new row, to be inserted below the "Efficiency" row within the MF-2 section of the table, which shall read as follows:

Square Feet of Land Area per Unit	Units Per Acre	Bedrooms in Unit
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3,800	11.5	1
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Modify §290-20F(2)(a), to read as follows:

Maximum principal buildings(s) coverage and lot coverage shall be as follows:

District	Maximum Principal Buildings(s) Coverage	Maximum Lot Coverage (including Principal Building(s) coverage)
MF-1	16.50%	33%
MF-2	20.00%	40%
MF-3	25.00%	50%

Modify subsection §290-20F(8)(a), to read as follows:

Definitions. For purposes of this section, a "nonconforming building" in the Multifamily (MF-1, MF-2 and MF-3) Districts shall be a building which does not conform to the bulk requirements set forth herein. A "nonconforming use" shall be a use which does not conform to the permitted use requirements set forth herein.

Delete subsections §290-20F(8)(b)[1] & [2] in their entirety.

Modify subsection §290-20F(8)(b), to read as follows:

Reserved

Add new subsections to §290-20F, which shall read:

- (11) For residential uses, the following additional requirements shall apply:
  - (a) All open areas not used for buildings, parking spaces and driveways shall be suitably landscaped or left in their natural state, as determined by the Planning Board.
  - (b) A specifically designated area or areas shall be available for recreational use of the residents.

- (c) In an MF-1 District, 25% of the entire tract shall be reserved as usable open space for use by all residents of the development or at the request of the applicant, prior to final site plan approval and subject to acceptance by the Town Board upon recommendation of the Parks Board and Recreation Commission, may be offered for dedication, in whole or in part, to the town. Such usable open space, exclusive of any off-street parking areas and access driveways or any other paved areas, shall have no dimension of less than 30 feet, except for access, and the location thereof shall be subject to the approval of the Planning Board. The community building and recreation facilities may be located within the usable open space. In an MF-2 District, the above percentage shall be 15%. In MF-3 districts the above percentage shall be 10%. Density shall be established prior to the identification of usable open space.
- (d) Facilities for refuse disposal shall be provided for all dwelling units. Collection areas shall be maintained and conveniently located for all groups of dwelling units. All storage containers for the collection of solid waste not within principal buildings shall be completely enclosed in a manner which is architecturally compatible with the principal buildings. All storage containers shall have permanently attached covers. The location of enclosures shall be subject to approval by the Planning Board.
- (e) All areas intended for vehicular use, access or parking shall be paved with a hardtop surface upon a suitable subgrade of materials and to specifications acceptable to the Director of Environmental Control. The base shall be properly drained and suitably constructed to support the prospective traffic load.
- (f) Open parking areas and driveways shall not be closer than 20 feet to any building or lot line.
- (g) No active exterior recreation facility, such as, but not limited to, a swimming pool (to edge of fence), tennis court or other recreational facility, shall be closer than 30 feet to any building or 50 feet to any lot line or be between a building line and a public street. Locker rooms and other supporting facilities shall be considered buildings for purposes of this distance requirement between buildings.
- (h) Traffic directional signs shall be provided as required by the Planning Board.
- (i) All walks, outside steps, vehicular entranceways, exitways and intersections of roads shall be adequately lighted; said lighting shall not be directed on adjacent streets or properties.

- (j) Buildings shall be individually identified and clearly marked with signs sufficiently illuminated to be visible from roadways or access drives at all times.
- (k) Group garages, if provided, shall be architecturally compatible with principal buildings.
- (l) Recreational areas and facilities, except where dedicated to the Town shall be solely for the use of residents of the development and their guests.
- (m) Opaque fencing, aesthetically attractive on both sides, at least 6 feet in height, shall be placed along any property line abutting a nonresidential use or nonresidential zone. The Planning Board may waive this requirement where adequate fencing, properly maintained, already exists on adjacent properties.
- (n) Internal roads shall be as follows: 2-way internal roads shall be at least 24 feet in width; while 1-way internal roads may be 14 feet in width if not used as parking aisles.
- (o) A single access road shall be provided and paved to a width of at least 24 feet for developments of not more than 50 units. For developments in excess of 50 units, a double-paved roadway of at least 24 feet and a median of 10 feet shall be provided, or multiple single-access roads shall be provided. Notwithstanding the foregoing, the Planning Board may approve alternates if reasonable safety and access are provided. Internal roads shall be built to town specifications.
- (p) The property shall have frontage on and access from a public street or streets.
- (q) The property shall be served by public water and sanitary sewers.
- (r) Distance between buildings. The distance between any two principal building structures shall be not less than the height of the tallest of the two buildings. The distance between any principal building and any accessory building or between two detached accessory buildings shall be not less than 20 feet for MF-1, MF-2 and MF-3, and no parking shall be located within this area. However, any other provision notwithstanding, a minimum distance of 60 feet shall be maintained between the center of any window in a habitable space other than a window in a bathroom or kitchen and any wall of the same or of another structure, the plane of which is parallel to or which intersects the plane of the wall in which said window is located at an angle of

less than 90°, such distance being measured in horizontal projection at the sill level of said window.

- (12) In addition, the site plan shall be accompanied by: sketches showing proposed architectural treatment; single-line floor plans showing layout of all buildings (not construction plans or structural plans) and the text of all filed or proposed restrictions concerning the use of land and buildings. The applicant shall submit a general statement describing the type of development proposed, which shall include a description of the proposed management, maintenance and ownership of the various elements of development, including:
- (a) Dwelling unit.
  - (b) Common areas and facilities maintenance.
  - (c) Ground, building and facility maintenance.
  - (d) Street ownership and maintenance.
- (13) The Planning Board may determine, on application for subdivision approval, if the site is appropriate for fee simple ownership-type units; in such cases, the minimum lot area for each dwelling shall be as determined by the Planning Board. The Planning Board may establish additional requirements.
- (14) A community hall or space shall be provided within each residential development, with a meeting room with an area no less than 15 square feet per dwelling unit, but not less than 400 square feet in area. The location of the community hall or space shall be subject to the approval of the Planning Board.
- (15) There shall be not more than 8 units in any building.

#### **Section 8. Additional Regulations for All Residential Zones**

Add new subsection, §290-20I, which shall read:

- I. Additional regulations in R-160, R-80, R-40, R-22, R-15, R-10, MF-1, MF-2 and MF-3 zoning districts shall be as follows:
- (1) All new nonresidential uses are subject to continued enforcement of performance standards procedure (§290-13B)
  - (2) In addition to the particular requirements for any use listed in Table 1, the Board of Appeals, Planning Board, or Town Board, as specified in Table 1 for a particular use, where reasonable and appropriate, may require fences and other safety devices, landscaping, screening, access roads and buffer areas.

- (3) No use listed in Table 1 shall be permitted for which there shall not be sufficient access suitably located to avert prospective traffic congestion, or hazard.
- (4) Buffer areas of 75 feet shall be required for special permit uses, except home occupation use. The Planning Board shall have the authority to reduce this buffer, but in no case shall the buffer be reduced to less than the required yard dimensions of the zoning district.
- (5) Parking spaces of any nonresidential use shall not be located within a required yard and shall be screened from adjoining properties by permanent landscaping which may include berms or other topographic features as required by the Planning Board.
- (6) All residences with an attached or included garage opening into a side yard shall have a minimum of 30 feet of side yard for access thereto.
- (7) All uses other than single family residences shall have minimum frontage of 100' and access to either a State or County major or secondary road as classified on the Town Official Map.
- (8) Any use in existence by virtue of a Special Permit issued by a municipal board shall be required to obtain a new Special Permit before the issuance of any building permit or within five (5) years of the effective date of this Local Law, whichever is first, regardless of whether any Special Permit was granted for that use before the enactment of this Local Law. The Special Permit shall be periodically renewed every five (5) years from the date of issuance or some other period of time as required by the applicable board.

Modify §290-21B(7) to read as follows:

Accessory buildings in required front yards. Where necessary and appropriate, the Board of Appeals may authorize any one of the following, accessory to a commercial or industrial use in R-160, R-80, R-40, R-22, R-15, R-10, MF-1, MF-2, MF-3, LS, LO, LIO, CS, RS, MRS, M or to an institutional use in any district: one dwelling unit for a caretaker; gatehouse; reception office; or watchman's post, to encroach in a required front yard, provided that such accessory building is set back at least 25 feet from the front lot line and 10 feet from any other lot line, does not cover more than 1% of the area of the lot, and has a height of no more than 25 feet.

## Section 9. Development Constraint Changes

Modify §290-21D(1) to read as follows:

Rights-of-way, easements and designated streets. 50% of any land within easements or rights-of-way for overhead utilities or within a designated street line and 100% of any land within easements or rights-of-way for ingress or egress shall not be counted as part of any minimum lot area requirement. No building or structure shall be located within any easement. However, a road may traverse an easement.

Modify §290-21D(2) to read as follows:

Land under water (applicable prior to development). Not more than 50% of the area of any lot proposed to be developed may be counted as part of any lot area if subject to the following: ponds; freshwater wetlands regulated by the Army Corps of Engineers; streams; areas within the Federal Emergency Management Agency designated special flood hazard or other flood area; that portion of any freshwater wetland and any one-hundred foot control area designated by the New York State Department of Environmental Conservation. No buildings or structures may be located in such areas.

Modify §290-21D(3)(b) to read as follows:

No buildings, structures or land disturbance shall be permitted on that portion of a lot with a slope in excess of the foregoing.

Modify the following definition in §290-3B, "BUFFER AND/OR BUFFER AREA," to read:

**BUFFER AND/OR BUFFER AREA:** Area(s) on a lot usually within required yard areas, used to screen development or uses on adjoining properties, composed of either undisturbed or landscaped areas subject to the requirements of the Planning Board and Architecture and Landscape Commission, and located according to the provisions of the Zoning Ordinance and the requirements of the Planning Board. The required setback shall be measured from the lot line for side and rear buffers and from the designated street line for front yard buffers. The following types of uses shall not be allowed in a "buffer area":

- (1) Buildings or aboveground structures.
- (2) Driveways and loading areas, except a driveway for ingress and egress to and from the site only shall be allowed to cross a buffer.
- (3) Parking areas or reserve parking areas.

- (4) Identification sign (pylon/movement).
- (5) Dumpster, trash, and recycling receptacles of any type.
- (6) Other structures or uses prohibited by the Planning Board.

**Section 10. Changes to Off-Street Loading Berths and Parking**

Add the following definitions, alphabetically placed, to §290-3B:

**LOADING AREA:** A space other than a street, public right-of-way, or required parking space, the principal use of which is for standing, loading and unloading of motor trucks, tractors, and trailers, to avoid undue interference with the public use of streets and alleys.

**LOADING BERTH:** A space adjacent to a loading dock, platform or dedicated receiving area other than a street, public right-of-way, or required parking space, the principal use of which is for standing, loading and unloading of motor trucks, tractors, and trailers, to avoid undue interference with the public use of streets and alleys.

Modify §290-23 to read as follows:

Off-street loading berths, open or enclosed, are permitted accessory to any use except residences for one or two families, subject to §290-25. However, no off-street loading berth shall be located within a required front yard.

Modify the title of §290-25 to read as follows:

**Required Off-Street Loading Berths and Loading Areas**

Modify the title of §290-25A to read as follows:

- A. Where required. Accessory off-street loading berths and loading areas shall be provided for any lot for any use specified in Column 7 of the Use Tables and Table 2 – Residential Zoning Districts Parking and Loading Requirements. Any land which is developed as a unit under single ownership and control shall be considered a single lot for the purposes of such requirements.

Modify §290-25B to read as follows:

Size, location and access. Each required loading area shall be at least 12 feet wide by 20 feet long. Each required loading berth shall be at least 12 feet wide, 33 feet long and 14 feet high and may be located either within a building or in open space but not within required accessory off-street parking spaces or accessory drives thereto. Unobstructed access at least 12 feet wide to and from a street shall be provided. Such access may be combined with access to a parking lot. All permitted or required loading berths shall be on the same lot as the use to which they are accessory, except as provided in Subsection C.

Add three new subsections, §290-25 D, E, and F which shall read:

- D. Open loading berths are permitted, provided that they are not located in the required front or side yards and are not adjacent to a residential district or residential use permitted by right. No loading area shall be permitted within 50 feet of any property line, and this setback shall be screened.
- E. Completely enclosed loading berths are permitted in all yard areas except the front yard; however, no enclosed loading berth, enclosed loading area or driveways serving either a loading berth or loading area shall be located within 25 feet of any property line.
- F. All loading berths, loading areas and driveways serving either a loading berth or loading area shall be illuminated with indirect lighting and shall have access only from a major or secondary road as classified on the Official Map of the Town of Clarkstown.

Modify §290-22A(2) to read as follows:

One currently registered commercial vehicle, not exceeding 6,500 pounds gross weight, may be permitted to park in an open parking space, adequately screened, in a residential zone, provided that such parking will not be in the required front or rear yard, or within 10 feet of a side lot line, except where there are driveways abutting lot lines or common driveways in use by two or more homes.

#### **Section 11. Transfer of Specific Requirements for Special Permits and Accessory Uses from Use Tables to Town Code Text and Changes to the Definition of Home Occupation**

Modify the following definition in §290-3B, "Home Occupation," to read:

**HOME OCCUPATION:** Any occupation, business or professional activity which results in a product or service and which is conducted in whole or in part in a dwelling or on a residentially zoned property, is clearly subordinate in space utilization and intensity to the residential use

of the dwelling unit and has received a permit from the Building Inspector or the Board of Appeals.

- (1) Home occupations do not include:
  - (a) Outside storage of equipment or material.
  - (b) The use or storage on site of a wheeled vehicle in excess of 6,500 pounds gross weight and no more than one wheeled vehicle other than passenger cars.
  - (c) Activities after the hour of 11:00 p.m. and before 7:00 a.m. on weekdays and from 11:00 p.m. to 9:00 a.m. on Saturdays and legal holidays.
  - (d) The keeping of goods for sale or rent.
- (2) Home occupations do not include animal hospitals, morticians, limousine services, automotive-repair services, barbershops, nail salons, beauty parlors, massage establishments, restaurants, pet grooming, animal breeding or kennels or similar uses which in the opinion of the Building Inspector are not usual and customary to a home occupation.

Add new subsection, §290-17AC which shall read:

AC. Home Occupation - As permitted by Special Permit of the Zoning Board of Appeals, a home occupation may utilize up to 25% of habitable floor area of principal building even if it exceeds 250 square feet. If the home occupation use, including related storage, utilizes less than 25% of the habitable floor area of the existing principal residence and less than 250 square feet in the principal residence, then this may constitute an Accessory Use subject to §290-201.

Home occupations as permitted by this Special Permit of the Zoning Board of Appeals shall be subject to the following conditions:

- (1) The Board of Appeals shall make appropriate findings with respect to locations, intensity of use, parking and any other factors that may affect neighboring properties.
- (2) The home occupation may be allowed in an accessory building if all yard requirements are met for said accessory building.
- (3) No more than 2 employees may be permitted.
- (4) Off-street parking shall be shown on a site plan, provided on the site, and shall not adversely affect neighborhood character. The

Board of Appeals shall require adequate screening to protect neighboring properties. The off-street parking shall be provided without paving more than 25% of the required front yard.

- (5) The home shall be the actual place of residence of the person conducting the home occupation.
- (6) The home occupation may allow the use of equipment not a customary household appliance or light office equipment. The Board of Appeals shall give consideration to such factors as air quality, noise, visual impact, sewers, emissions, and any other pollution standards that may be applicable.
- (7) The lawful use of any premises as a home occupation existing on May 24, 1988 may be continued although neither such use nor bulk conforms to the current regulations. Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use.
- (8) The applicant shall provide a sworn and notarized affidavit indicating how all the aforementioned conditions will be met.

Add new subsection, §290-20I, which shall read:

- I. Home Occupation – Accessory Use. Home occupations shall be accessory uses by right upon issuance of a permit from the Building Inspector if the use, including related storage, is located in and occupies no more than 25% of the habitable floor area of the existing principal residence and no more than 250 sq. ft. in the principal residence, whichever is less. If said home occupation exceeds 250 sq. ft. in the principal residence the use would require a Special Permit of the Zoning Board of Appeals subject to §290-17AC.

Home occupations as accessory uses shall be subject to the following conditions:

- (1) The number of persons who assist or are employed in any capacity, whether as employees, commission agents, independent contractors, partners, officers, directors or stockholders, shall not exceed 1 person outside those residing in the family unit.
- (2) Visiting clientele may not exceed more than 1 vehicle per 1/2 hour.
- (3) Off-street parking shall be shown on a plan and shall be provided without paving more than 25% of the required front yard.

- (4) The plan shall show 2 parking spaces in addition to those which are required for the residence(s).
- (5) Landscaping or other appropriate screening as required by the Building Inspector or the Director of Environmental Control of the Town of Clarkstown shall be provided to screen parking from adjoining properties.
- (6) The home shall be the actual place of residence of the person conducting the home occupation.
- (7) The home occupation shall not involve the on-site use or storage of any commercial vehicles or construction equipment or mechanical equipment not permanently affixed to the premises, except for 1 vehicle not over 6,500 pounds.
- (8) The home occupation shall not involve the use of any chemical, mechanical or electrical equipment or fixture which is not a customary household appliance or light office equipment. This requirement shall not apply to the use of the premises as a home occupation by doctors, dentists and chiropractors.
- (9) No manufacturing or assembly shall be permitted using other than manually operated equipment.
- (10) There shall be no more than 1 home occupation per dwelling unit.
- (11) Instructional services or sales meeting shall be limited to no more than 2 participants, including visitors, at a time.
- (12) The applicant shall demonstrate that there will be no noise, odor, smoke, glare or vibration beyond the property line.
- (13) Provision for dust collection or collection of similar by-products shall be provided.
- (14) The lawful use of any premises as a home occupation existing on May 24, 1988 may be continued although neither such use nor bulk conforms to the current regulations. Normal maintenance and repair of premises used as a nonconforming home occupation shall be permitted if it does not extend the area of or the intensity of such use.
- (15) The applicant shall provide a sworn and notarized affidavit indicating how all the aforementioned conditions will be met.

Add new subsection, §290-20J, which shall read:

- J. In the R-160, R-80, R-40, R-22, R-15 and R-10 zoning districts keeping domestic animals (except pigs) for individual domestic purposes shall be permitted provided that not more than 1 horse or cow per acre, 5 cats or dogs over 6 months old, and not more than 25 fowl shall be kept on any lot. No animals (except cats or dogs) shall be penned or housed within 50 feet of any lot line and there shall be no storage of manure, animal waste or odor-or dust-producing substance or use, except spraying or dusting to protect vegetation, within 50 ft. of any lot line, watercourse or wetland.

Add new subsection, §290-20K, which shall read:

K. Retail/Commercial Agricultural Allowable Operations.

In the R-160, R-80, R-40, R-22 and R-15 zoning districts the following commercial agriculture operations shall be permitted, provided that there shall be no greenhouse, heating plant, stable or similar animal housing, or the storage of manure of other odor-or dust-producing substance or use, except spraying or dusting to protect vegetation, within 200 ft. of any lot line, watercourse or wetland and all equipment is kept within a completely enclosed building:

- (a) Nurseries, greenhouse and growing of mushrooms, provided that no smokestack shall exceed the height regulation; buildings for display and sale of agricultural products.
- (b) Orchards, truck gardening and growing of other field crops and vineyards and growing of other bush and berry crops.
- (c) Keeping, breeding and raising of cattle (including dairies), sheep, goats and horses and rental of horses, on lots of 10 acres or more. However, keeping, breeding, and raising of fowl, pigs, rabbits, fox, mink, rodents, primates and other small fur-bearing animals for any commercial or laboratory purpose is not permitted.

**Section 12. Changes to the Active Adult Residence (AAR) Zoning District and Senior Housing Requirements**

**AAR**

Modify §290-7.1(I), to read as follows:

- I. Incentive density bonus. In granting an application for rezoning to an Active Adult Residence Zone, the Town Board may, in its discretion, grant up to the following maximum density bonuses:

- (1) In R-22, R-15 and R-10 Zones, the maximum density bonus is equal to 100% of the maximum residential density, provided that 30% of the additional units permitted as a result of the density bonus shall constitute affordable units.
- (2) In MF-1, MF-2 and MF-3 Zones, the maximum density bonus is equal to 20% of the maximum residential density, provided that 35% of the additional units permitted as a result of the density bonus shall constitute affordable units.
- (3) For nonresidential zones, the maximum residential density shall be calculated by applying the zoning district of abutting residential parcels, and calculating a theoretical unit count based upon a standard subdivision map. For nonresidential parcels that abut more than one residentially zoned parcel, the maximum residential density shall be calculated by applying the zoning district of the residential parcel with the greatest percentage of property abutting the subject property. For nonresidential zones abutting R-22, R-15 and R-10 Zones, the maximum density bonus is equal to 100% of the maximum residential density, provided that 30% of the additional units permitted as a result of the density bonus shall constitute affordable units. For nonresidential zones abutting MF-1, MF-2 and MF-3 Zones, the maximum density bonus is equal to 20% of the maximum residential density, provided that 35% of the additional units permitted as a result of the density bonus shall constitute affordable units.
- (4) The Town Board may, in its discretion, grant less than the maximum density bonus with a corresponding pro-rata reduction in the number of required affordable units. The density bonus shall be established on a case-by-case basis by the Town Board using comparisons of traffic, impervious surface, proposed numbers of affordable units, variety of housing types and any other development-related factors the Town Board deems to be relevant, including, but not limited to, the surrounding residential zones.

Modify §290-20(G)(1)(c) to read as follows:

Maximum principal building(s) coverage shall be 20% and maximum lot coverage, which includes Principal Building(s) coverage, shall be 50% within the AAR zoning district.

Modify §290-20(G)(1)(d) to read as follows:

- (d) Minimum front lot line for overall site shall be 300 feet and access to either a State or County major or secondary road as classified on the Town Official Map.

## **Senior Housing**

Modify §290-170(A)(8)(b), to read as follows:

At least 10% of the units shall be affordable units, except for Assisted Care Living Quarters.

Modify §290-170(A)(11)(c), to read as follows:

Minimum front lot line shall be 300 feet along a State or County major or secondary road.

Add new subsection, §290-170(A)(11)(v), which shall read:

One bedroom dwelling units shall be a maximum of 900 square feet and two bedroom units shall be a maximum of 1,200 square feet.

Add new subsection, §290-170(B)(2)(l), which shall read:

One bedroom dwelling units shall be a maximum of 900 square feet and two bedroom units shall be a maximum of 1,200 square feet.

Modify §290-170(A)(11)(f), to read as follows:

Maximum principal building(s) coverage shall be 33% and maximum lot coverage, which includes Principal Building(s) coverage, shall be 50%.

Modify §290-170(A)(11)(m), to read as follows:

Reserved

Modify §290-170(A)(11)(n), to read as follows:

Reserved

Modify §290-170(B)(2)(f), to read as follows:

Maximum principal building(s) coverage shall be 33% and maximum lot coverage, which includes Principal Building(s) coverage, shall be 66%.

Modify §290-170(B)(2)(b), to read as follows:

Minimum lot area shall be one acre.

## **Section 13. Requirements for Dormitories/Accessory Sleeping Quarters**

Add the following two definitions, alphabetically placed, to §290-3B:

**SCHOOL OF GENERAL INSTRUCTION:** Any public or private nursery, elementary, junior high, high school or college offering courses in general instruction and accredited by the New York State Education Department, offering courses at least five days per week and seven months per year.

**DORMITORIES:** A building or part of a building containing private or semiprivate rooms which open to a common hallway, which rooms are sleeping quarters for administrative staff, faculty or students, along with bathroom, dining, cooking, laundry, lounge and recreation facilities, as required. Dormitory rooms shall not contain separate cooking, dining or housekeeping facilities, except that one dwelling unit with complete housekeeping facilities may be provided for use of a superintendent or supervising staff for every 50 dormitory rooms, or major part thereof. No more than one communal dining room shall be provided in the building or structure used for dormitory purposes. Single-family, two-family and/or other multiple residential facilities, other than that described above, are not to be considered as dormitories. Private rooms may be occupied by no more than one person and semiprivate rooms by no more than four persons.

Add new subsection, §290-17AB, which shall read:

AB. Dormitories – Dormitories are permitted by Special Use Permit of the Planning Board only as accessory uses to, and located on the same lot as, Schools of General Instruction or camps subject to the following conditions:

- (1) There shall be a minimum lot area of 2,400 square feet provided per dormitory bed, exclusive of the lot area allocated and devoted to the principal and other accessory buildings on any site including the required yards and/or setbacks, buffers and parking facilities for said buildings.
- (2) The minimum distance between a dormitory and any other building on the lot shall be 50 feet.
- (3) The minimum distance between any dormitory and any interior driveway shall be 25 feet.
- (4) The maximum height of any dormitory shall be two stories or 25 feet, whichever is less.
- (5) No dormitory room or dwelling unit shall be permitted in any cellar or basement.

(6) All dormitories shall be equipped with sprinkler and fire alarm systems in accordance with the Town of Clarkstown Fire Prevention Code and the New York State Uniform Fire Prevention and Building Codes.

(7) Required off-street parking (subject to Article VI and Table 2).

(8) Additional regulations.

(a) No trucking shall be permitted into a site from a collector or local street. No shipping or receiving of goods shall be permitted between the hours of 7:00 p.m. and 7:00 a.m.

(b) Access roads:

[1] Ingress and egress roads shall be from a State or County major or secondary road. A variance from this provision shall be deemed a use variance.

[2] Site access roads shall not be located within 100 feet of any street intersection.

(9) Floor area ratio shall be 0.30.

(10) Yard requirements:

Front Yard 100 feet

Side Yard 100 feet

Rear Yard 100 feet

#### **Section 14. Requirement for Payment or Resolution of Taxes, Assessments, Violations and Other Fees**

Modify §290-14 to read as follows:

No variances, special permits, subdivision or site plan approvals or authorizations shall be issued, no applications therefore shall be considered, and no review shall be conducted by the Town Board, Planning Board and Zoning Board of Appeals, with respect to any premises within the Town unless and until all outstanding Code violations on said premises are resolved and all amounts due the Town in real estate taxes, special assessments and any other payment chargeable to the owner or possessor of said premises, together with all penalties and interest thereon, shall have been paid in full.

#### **Section 15. Table Re-Numbering and Referencing**

Re-number the tables of the Town Code accordingly to reflect those tables removed and the addition of the new Tables 1 and 2.

Modify all references to the tables to reflect re-numbering.

**Section 16. When effective.**

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

11-Mar-16

# Local Law - Attachment #1

## Table #1

### Residential Zoning Districts Land Use

P=Permitted By Right

Blank = Not Permitted

TB = Permitted by Special Permit of the Town Board

ZBA = Permitted by Special Permit of the ZBA

PB= Permitted by Special Permit of the PB

A = Permitted as General Accessory Use

ALL USES	R-160	R-80	R-40	R-22	R-15	R-10	MF-1 MF-2 MF-3
<b>RESIDENTIAL</b>							
Single-family detached residences	P	P	P	P	P	P	P
Two-family residences						P	P
Multi-family Residences							P
Senior citizen housing subject to §290-170(A).				PB	PB	PB	PB
Accommodations for superintendent which shall be part of the overall density of the site.							A
Gatehouse, reception office or watchman's post, subject to §290-21B(7).	A	A	A	A	A	A	A
The following private structures when provided as an integral part of an overall development: garages, tennis (and similar) courts, swimming pools, pump houses, clubhouses. Swimming pools are subject to Chapter 258 of the Town Code.							A
The following private structures: greenhouses, barns, tool sheds, garages, tennis (and similar) courts, swimming pools. Swimming pools are subject to Chapter 258 of the Town Code.	A	A	A	A	A	A	

								MF-1
								MF-2
ALL USES	R-160	R-80	R-40	R-22	R-15	R-10		MF-3
Keeping not more than 2 nontransient boarders or roomers	A	A	A	A	A	A		
Keeping not more than 1 unoccupied trailer, or boat or commercial vehicle subject to §290-22.	A	A	A	A	A	A		
Keeping domestic animals (except pigs) subject to §290-20J.	A	A	A	A	A	A		
Keeping of not more than 3 cats or dogs over 6 months old.								A
<b>CIVIC/RECREATION</b>								
Private Recreational Clubs on lots not less than 10 acres in area, including golf courses, tennis clubs, beaches, marinas, yacht and similar clubs, related uses such as boat rental and picnic grounds. Accessory restaurants shall not be within 200 ft. of any lot line.	PB	PB	PB	PB	PB	PB	PB	PB
Places of worship.	P	P	P	P	P	P	P	P
Preserves, parks and playgrounds	P	P	P	P	P	P	P	P
Recreation facilities, indoor and outdoor, incidental to places of worship or to schools.	A	A	A	A	A	A		
Day Camps on lots not less than 10 acres, subject to §290-17D.	PB	PB	PB	PB	PB	PB		
Camps, on lots not less than 10 acres, with dormitories, subject to §290-17D and §290-17AB.	PB	PB	PB	PB	PB	PB		
Community Centers, libraries, museums, art galleries and similar facilities.	PB	PB	PB	PB	PB	PB	PB	
<b>SCHOOLS</b>								
Schools of general instruction.		P	P	P	P	P	P	P
Schools of general instruction with dormitories subject to §290-17AB.		PB	PB	PB	PB	PB	PB	PB
<b>MEDICAL</b>								

							MF-1
							MF-2
ALL USES	R-160	R-80	R-40	R-22	R-15	R-10	MF-3
Convalescent and nursing homes, and institutions for children or the aged, licensed by the State or authorized by the Department of Health of NYS as a residential health care facility whether or not operated for profit, provided that no building is located within 100 ft. of any lot and the lot has an area of at least 4 acres.							TB
Hospice residences on lots with a minimum of 10 acres, subject to §290-17W.	TB	TB					
<b>RETAIL/COMMERCIAL</b>							
Commercial Agriculture Operations, subject to §290-20K.	P	P	P	P	P		
Child day-care centers, when accessory to places of worship pursuant to §290-17Z.	PB	PB	PB	PB	PB	PB	PB
Home occupations, subject to §290-17AC.	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	
Home occupations subject to §290-20I.	A	A	A	A	A	A	
Professional offices of a doctor, psychologist, dentist, chiropractor, lawyer or accountant, engineer, or surveyor provided that the number of such offices in each development shall not exceed 1 for each 25 dwelling units or major fraction thereof, not to exceed 2,000 square feet per office.							A

							MF-1
							MF-2
ALL USES	R-160	R-80	R-40	R-22	R-15	R-10	MF-3
Temporary structures for storage of equipment and materials used in connection with the construction of residential development, and temporary sales offices, not to exceed 2 years. The Building Inspector may extend the time period in one-year increments so long as construction and sales activities are underway.	A	A	A	A	A	A	A
<b>MISCELLANEOUS</b>							
Cemeteries on plots of at least 5 acres subject to approval of the County Legislature.	P	P	P	P	P	P	P
Public utility substations or pumping stations and telephone exchanges, housed in a structure that harmonizes with the character of the neighborhood and having adequate fences and other safety devices and adequate screening and landscaping provided that they provide service to the surrounding area.	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
Public utility right-of-way, towers and lines, provided that they are necessary for the general welfare; neighborhood character and surrounding property values are reasonably safeguarded; and that the towers and poles conform to the height restrictions of the district.	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA
<b>Reservoirs</b>	TB						
Water towers and water tanks owned and operated by a public utility, which water tank or water tower is located at or above ground, on plots of 3 acres or more.	TB	TB	TB	TB	TB	TB	TB
<b>MISCELLANEOUS ACCESSORY USES</b>							

								MF-1
								MF-2
ALL USES	R-160	R-80	R-40	R-22	R-15	R-10		MF-3
Accessory parking, subject to Article VI and Table 2 Residential Zoning Districts Parking and Loading Requirements.	A	A	A	A	A	A		A
Accessory loading, subject to Article VI and Table 2 Residential Zoning Districts Parking and Loading Requirements.	A	A	A	A	A	A		A

## Local Law -Attachment #2

### Table #2

### Residential Zoning Districts Parking and Loading Requirements

March 11, 2016

Minimum Required Off Street Parking and Loading for Zoning Districts R-160, R-80, R-40, R-22, R-15, R-10, MF 1, 2 & 3  
(Subject to Article VI)

ALL USES	AT LEAST ONE PARKING SPACE FOR EACH:	LOADING BERTH (LB) OR LOADING AREA (LA) REQUIRED
Residential Districts	1/2 dwelling unit, plus 2 spaces for any accessory home occupation or principal agricultural use.	-
Multi-Family Residences	1/2 unit. At least 1/4 of all required parking shall be enclosed. Additional guest parking shall be provided and shall be no less than 20% of the required parking. Guest parking shall be in groups of 5 or more spaces and shall be placed to allow convenient use by guests, as determined by the Planning Board. Driveways shall not be considered as parking spaces for purposes of meeting this requirement.	-
Senior Housing	Refer to §290-170(A)(10) or §290-20G(2)(d),(3)(c)	LB
Private Recreational Clubs, golf courses, tennis clubs, beaches, marinas, yacht and similar clubs.	2 members or accommodations such as lockers, whichever is greater.	LA
Places of worship	200 Square Feet of Floor Area, but not less than 1 space for each 5 seats where provided.	-
Preserves, parks and playgrounds	0.4 acres	-
Recreation facilities, indoor and outdoor, incidental to places of worship.	No additional parking required. Parking provided for Places of Worship.	-
Day camps	Employee	-
Camps with dormitories	10 beds plus 1 for each employee	LA
Community Centers, libraries, museums, art galleries and similar facilities	200 Square Feet of Floor Area, but not less than 1 space for each 5 seats where provided.	LB
Schools of general instruction	12 seats or students for schools of elementary or nursery grades and 6 seats or students for other schools.	-
Schools of general instruction with dormitories	12 seats or students for schools of elementary or nursery grades and 6 seats or students for other schools, plus 1 space per 4 beds for high schools and 1 space per 2 beds for post secondary schools.	LA
Convalescent and nursing homes and institutions for children or the aged	4 beds, plus 1 for each employee.	LB
Hospice residences	4 beds, plus 1 for each employee.	LA
Commercial agriculture operations	200 Square Feet.	LA
Child day-care centers when accessory to places of worship	350 Square Feet.	-
Professional offices of a doctor, psychologist, dentist, chiropractor, lawyer or accountant, engineer, or surveyor.	150 square feet of gross floor area, except that this provision shall not be applicable to premises for which building permits were issued prior to September 30, 1978.	-
Public Utility substations or pumping stations and telephone exchanges	1/2 site, plus 1 per employee.	-

March 11, 2016

## Synopsis

### Section 1. Title

Local Law Amending the Zoning Map and Chapter 290 of the Town Code of the Town of Clarkstown Regulating Non-Residential Uses in Residential Zoning Districts

### Section 2. Legislative Intent

On September 29, 2015 the Town Board passed a moratorium on applications to the Town Board, Planning Board and Zoning Board of Appeals for development approvals within the R, MF, RG and AAR zones. The intent of this legislation was to temporarily suspend the approval of residential subdivisions and other residential and non-residential development within residential and multifamily zoning districts while the Town considered changes to its land use regulations as they pertain specifically to the following goals and objectives of the Comprehensive Plan:

1. Preserve the suburban and remaining semi-rural character of the Town.
2. Develop zoning and building regulations that reduce or restrict odors, sounds, commercial traffic, light pollution and other negative environmental impacts on residential areas.
3. Expand initiatives to safeguard neighborhoods from inappropriately scaled development.

As instructed by the Supervisor, a committee was formed consisting of the Departments of Planning, Building and Environmental Control and the Town Attorney's Office. Since the moratorium was passed on September 29, 2015 this committee has met one to two times per week to develop amendments to the Zoning Map and Town Code that would address issues of development/redevelopment within the Town's residential zones.

### Section 3. Zoning Map Amendment – Replacement of RG-1 and RG-2 Zoning Districts with MF-2 and MF-3 Zoning Districts

The General Residence, Low Density (RG-1) and General Residence, Medium Density (RG-2) zoning districts are proposed to be replaced by Multifamily (MF-2 and MF-3) zoning districts. Very little vacant General Residence, Low Density (RG-1) and General Residence, Medium Density (RG-2) zoned land exists within the Town. The MF-2 and MF-3 zoning districts were created in 1988 and were originally intended to replace the RG zones. The housing densities permitted by the MF-2 and MF-3 are slightly lower than those of the RG-1 and RG-2 zones, respectively. Thus overall development potential will be slightly lowered were this change to take effect.

#### **Section 4. Amendments to Use Tables**

The individual use tables for all of the residential zones (R-160, R-80, R-40, R-22, R-15, R-10, MF-1, MF-2 and MF-3), which currently exist as separate tables for each zone, are proposed to be consolidated into one table. As most of the uses permitted in these zones are common to all of them, consolidation of the tables will lead to a more comprehensible and concise reference system. It is recommended that many non-residential uses currently permitted in these residential zones be removed or modified. Other uses, which are licensed and regulated by the state or exempt from zoning, are also proposed to be removed. Some of the most significant changes are as follows:

- Remove sand pits, gravel pits and excavation operations from all residential zones
- Remove public and private hospitals and sanitariums from all residential zones
- Remove floodplain uses and reservoirs from all residential zones, except R-160 where they are currently located.
- Remove silos and greenhouses from MF zoning districts
- Reduce the number of non-transient boarders or roomers allowed from 3 to 2
- Increase private recreation clubs minimum area requirement from 5 to 10 acres
- Cap professional offices in MF zones at a 2,000 SF maximum
- Remove family day care uses, as these uses are regulated by the state
- Remove boarding home and group home uses, as these uses are mandated by the state to be treated as single family residential uses
- Remove fire, police, emergency service and United States Postal facilities, as these uses are exempt from zoning
- Require nursing and convalescent homes to be licensed
- Change references to churches to "places of worship"

Additionally, it is recommended that many uses which were previously permitted by Special Permit of the Town Board or Zoning Board of Appeals be instead permitted by Special Permit of the Planning Board. As the Planning Board is nearly always the entity responsible for ensuring applicants adhere to the provisions of Special Permit uses, and almost always the Lead Agency under the New York State Environmental Quality Review Act (SEQRA), charging the Planning Board with the issuance of these Special Permits makes for a more efficient and streamlined review process.

#### **Section 5. Addition of Residential Use Parking and Loading Table**

As the separate residential use tables are proposed to be eliminated, portions of these tables dealing with parking and loading requirements were reorganized into a new separate table. Uses that previously did not have parking and loading requirements listed were updated to include this information. As an alternative to loading berths, loading areas were added for some uses, which offer a less intensive option for development.

## **Section 6. Amendments to Bulk Table**

As the RG-1 and RG-2 zones are being recommended for removal from the Zoning Map, these zones will also need to be removed from the bulk table. The elimination of the two rows on the bulk table previously occupied by the RG-1 and RG-2 zones provides space for the Commercial Office (CO) and Commercial Office Support (COS) zones, which were on a separate table previously; the notes from the CO and COS table can also be added to the bulk table.

A row was added to the bulk table to add requirements for two-family residences in the R-10 zone. Previously the bulk requirements for this use defaulted to a generic "other use" category. The minimum lot size for "all other uses" within the R-10 zoning district was also increased from 40,000 to 80,000 square feet to better protect these neighborhoods from potentially out of scale uses.

Additionally, a new map note was added to the bulk table to require uses other than single-family homes to have a minimum of 100 feet of frontage on a State or County major or secondary class road as classified on the Town Official Map. This requirement is based on the previous provision that two-family residences be located on major or secondary class roads. As other uses permitted within the residential zones are typically more intensive than two-family homes, it is recommended that these uses should carry this requirement and be further restricted to State or County roads, which can handle higher volumes of traffic.

Two new columns were added to the bulk table, Principal Buildings(s) Coverage and Total Lot Coverage; a definition for Principal Building was also added. These categories add requirements that will limit excess land coverage and aid in stormwater quality/quantity control.

## **Section 7. Additional Regulations for Multifamily Residential Uses**

To provide additional clarity to the Town Code, a definition for "Multi-Family" was added to the definitions section. This definition simply refers to the current definition for "Multiple Residences." Additional regulations for uses within the MF-1, MF-2 and MF-3 zones, which were previously located on the original use table, were moved to appropriate sections within the Code text. Certain requirements from the RG-1 and RG-2 zoning districts that were more restrictive and offered better development control were added to these sections as well. In addition, structure and lot coverage requirements were added to limit excess land coverage and aid in stormwater quality/quantity control.

## **Section 8. Additional Regulations for All Residential Zones**

Similar to Section 7, additional regulations for all residential uses were transferred from the original use table to the Code text. A cross reference concerning requirements for accessory buildings in front yards was corrected to include all applicable districts. Whereas currently the

Planning Board has the authority to reduce the required buffer from 75' to 25' for Special Permit uses, it is proposed that the Planning Board only be allowed to reduce this buffer to the required yard dimensions of the zoning district. Further oversight of Special Permit uses is also proposed, by requiring them to renew their Permit every 5 years or some other period of time, as required by the applicable Board.

#### **Section 9. Development Constraint Changes**

It is recommended that development on environmentally sensitive lands be further restricted. It is proposed that 50% of the area of the land containing wetlands and designated floodplains not be counted toward the minimum lot area for development purposes. Furthermore, no buildings or structures would be permitted in these areas. Additionally, land disturbance of any kind, not just building construction, would no longer be permitted on steeply sloped portions of land. The definition of "Buffer and/or Buffer Area" is also proposed to be modified to include additional information on how to measure buffers and buffer areas.

#### **Section 10. Changes to Required Off-Street Loading Berths and Permitted Accessory Parking**

The requirements for loading berths, which were previously in the original use table, were added to the Code text. New text was added to permit loading areas as an alternative to loading berths. The minimum vehicular weight of a commercial vehicle parked in a residential zone was increased from 4,000 pounds to 6,500 pounds. This change is recommended to accommodate the increase in weight of modern vehicles since the original text was written. Definitions were added for "Loading Berth" and "Loading Area."

#### **Section 11. Transfer of Specific Requirements for Special Permits and Accessory Uses from Use Tables to Town Code Text and Changes to the Definition of Home Occupation**

As in previous Sections, content from the original use tables concerning Special Permits and accessory uses were transferred to the Code text. The definition of "Home Occupation" was altered to eliminate massage establishments, pet grooming, nail salons and other similar uses.

#### **Section 12. Changes to the Active Adult Residence (AAR) Zoning District and Senior Housing Requirements**

Despite past efforts to increase the amount of affordable senior housing within the town, there is still a significant demand. Density incentives utilized in past senior zoning resulted in the creation of luxury units that did not address this demand. As such, this proposed Local Law

would increase the minimum requirement for affordable units within AAR developments from 20% to 30% when applied over R-22, R-15 and R-10 zones, and from 20% to 35% when applied over MF-1, MF-2 and MF-3 zones. The densities permitted for senior housing development should offset any loss of development revenue as a result of this increase. The affordable unit requirement is proposed to remain at 10% within Senior Housing developments, but it is proposed that Assisted Living Quarters not be held to this requirement as this housing type provides for many additional services.

To better protect the town's established single-family residential neighborhoods from out of scale development, the areas where senior housing developments are permitted to be constructed were reviewed. As stated previously, two-family residences are required to be located on major or secondary roads, and these uses are much less intense than senior housing developments. Likewise, it is proposed that senior housing developments would no longer be permitted on collector class roads, and would only be constructed on State or County major or secondary class roads. As these roads are capable of handling more traffic, the requirement that Senior Citizen Congregate Housing sites be located 1,500' apart is proposed to be removed, along with the same requirement for Assisted Care Living Quarters.

Two senior housing developments are currently being proposed within the Town. While the town's multifamily and mixed-use zoning districts have limits on unit sizes within housing developments, there is currently no cap on unit size within senior housing developments. As such, this Local Law establishes a maximum size for a one-bedroom unit at 900 square feet, and a maximum size for a two-bedroom unit at 1,200 square feet. In addition, structure and lot coverage requirements were added to limit excess land coverage and aid in stormwater quality/quantity control.

This Local Law also proposes lifting the cap on senior housing projects in our Hamlet Centers. Currently, in Hamlet Centers senior housing projects can only be on a "maximum of 2 acres." At 21 units an acre, a project could not have more than 42 units. Yet Hamlet Centers are ideal to support larger senior developments as they have the services, shopping, transportation and pedestrian amenities seniors need.

### **Section 13. Requirements for Dormitories/Accessory Sleeping Quarters**

The town has recently received proposals for dormitory uses in association with camps and schools; no current regulations exist for such uses. Definitions are being proposed for both "Schools of General Instruction" and "Dormitories." Dormitories would be permitted by a Special Permit of the Planning Board, but only as accessory uses to Schools of General Instruction or camps. Similar to other more intensive uses, dormitories would only be permitted on State or County major or secondary class roads. Lot area requirements for dormitories would increase in relationship to bed count and dormitory structures would be limited to a maximum height of two-stories or 25', whichever is less. Front, side and rear yard setback requirements for

dormitories would be 100', which would help to safeguard single-family residential neighborhoods from potentially out of scale development.

**Section 14. Requirement for Payment or Resolution of Taxes, Assessments, Violations and Other Fees**

This section proposes the addition of language that would prohibit the Town Board, Planning Board or Zoning Board of Appeals from reviewing and approving any land use proposal until the owner of property pays the Town any outstanding taxes or fees and resolves any existing Code violations.

**Section 15. Table Re-Numbering and Referencing**

As several tables are proposed to be removed from the Town Code as a result of this law, the existing tables will require renumbering, and references to the tables throughout the Code will require updating.

**Section 16. When effective.**

This local law shall take effect immediately upon filing with the Secretary of State of the State of New York.

11-Mar-16

## Residential Zoning Use Table Worksheet

Town of Clarkstown  
 Planning Department  
 Use Table for all Residential Zones  
 Incorporating edits as directed by  
 Residential Zoning Working Group  
 (reflects edits through 1/14/16)

P=Permitted By Right  
 Blank = Not Permitted  
 TB = Permitted by Special Permit of the Town Board  
 ZBA = Permitted by Special Permit of the ZBA  
 PB= Permitted by Special Permit of the PB  
 A = Permitted as General Accessory Use

Strikethrough text is proposed to be removed.  
 Blue is proposed to be added.  
 TEXT IN GREEN HAS BEEN RELOCATED TO A NEW SECTION IN 290

**\*\*ELIMINATED THE RG-1 & RG-2 ZONES IN THEIR ENTIRETY\*\***

ALL USES	R-160	R-80	R-40	R-22	R-15	R-10	<del>RG-1</del>	<del>RG-2</del>	MF-1 MF-2 MF-3	NOTES/CHANGES MADE Re-ordered uses from least to most intensive
<b>RESIDENTIAL</b>										
Single-family detached residences	P	P	P	P	P	P	P	P	P	Added "P" to MFs
Two-family residences, provided that the property shall conform to all the bulk regulations of Group N listed under Table of General Bulk Regulations and shall have frontage and access to either a major, secondary or collector road as classified on the Town Official Map, as amended.						P			P	Added "P" to MFs
Two-family residences							<del>ZBA</del>	<del>ZBA</del>		Eliminated the entire category
Condominium-type garden apartments							P	P		Eliminated the entire category
Rental-type garden apartments and cooperative garden apartments.							<del>TB</del>	P		Eliminated the entire category
Multi-family Residences Dwelling units of all types of design and forms of ownership, including rental, cooperative, condominium, except single family detached residences. Fee simple shall be subject to Column 6, Item 10.									P	Added and Deleted text as shown.
Senior citizen housing subject to §290-170(A).				PB	PB	PB	PB	PB	PB	No Change
Accommodations for superintendent which shall be part of the overall density of the site.									A	No Change
Sleeping facilities for servants. Accommodations for servants. For any institutional user 1 dwelling unit for a caretaker (which shall be part of the overall density of the site), gatehouse, reception office or watchman's post, subject to §200-21B(7), except that all of the above are permitted. (See attached)	A	A	A	A	A	A	A	A		Eliminated the entire category Eliminated the entire category
For any institutional user 1 dwelling unit for a caretaker, Gatehouse, reception office or watchman's post, subject to §290-21B(7).	A	A	A	A	A	A	A	A	A	Eliminated text as shown; Added "A" to MFs;

ALL USES	R-160	R-80	R-40	R-22	R-15	R-10	RG-1	RG-2	MF-1 MF-2 MF-3	NOTES/CHANGES MADE Re-ordered uses from least to most intensive
The following private structures when provided as an integral part of an overall development: greenhouses, barns, silos, tool sheds, main service buildings, garages, tennis (and similar) courts, water tanks, swimming pools, pump houses, clubhouses, recreational structures and other similar structures. Swimming pools are subject to Chapter 258 of the Town Code.									A	Eliminated text as shown;
The following private structures: greenhouses, barns, silos, tool sheds, garages, tennis (and similar) courts, swimming pools, recreational structures and other similar structures. Swimming pools are subject to Chapter 258 of the Town Code. (See attached)	A	A	A	A	A	A	A	A		Inserted text as shown.
Keeping not more than 2 nontransient boarders or roomers	A	A	A	A	A	A	A	A		Changed # of Boarders from 3 to 2.
Keeping not more than 1 unoccupied trailer or boat, or commercial vehicle subject to §290-22.	A	A	A	A	A	A	A	A		
Keeping domestic animals (except pigs) subject to §290-20J. Keeping domestic animals (except pigs) for individual domestic purposes or for cultivation of the soil provided that not more than 1 horse or cow per acre, 5 cats or dogs over 6 months old, and not more than 25 fowl shall be kept on any lot, and all No animals (except cats or dogs) or fowl shall be penned or housed within and no odor or dust-producing substance or use, except spraying or dusting to protect vegetation, shall be maintained allowed within 50 ft. of any	A	A	A	A	A	A				Inserted and removed text as shown and added "A" to R-160;
Keeping of not more than 3 cats or dogs over 6 months old.							A	A	A	Added "A" to MFs
<b>CIVIC/RECREATION</b> Golf courses and tennis clubs (public or private), on lots not less than 10 acres in area, including picnic areas and accessory restaurants, whether or not operated for profit, but not within 200 feet of any lot line.	P									Eliminated the entire category
Private Recreational Clubs Golf Courses & Tennis Clubs and private clubs, on lots not less than 5 10 acres in area, including golf courses, tennis clubs, beaches, marinas, yacht and similar clubs, related uses such as boat rental or storage and picnic grounds. Accessory restaurants whether or not operated for profit, but shall not be within 200 ft. of any lot line.	PB	ZBA, PB	ZBA, PB	ZBA, PB	ZBA, PB	PB	ZBA	ZBA	PB	Inserted and removed text as shown; added "PB" to every district; removed ZBA from R-15, R-22, R-40, R-80.
Places of worship, accessory rooms for religious training, parish houses and rectories	P	P	P	P	P	P			P	Eliminated and inserted text as shown; Added "P" to R-80, R-40, R-22, R-15, R-10.

	R-160	R-80	R-40	R-22	R-15	R-10	RG-1	RG-3	MF-1 MF-2 MF-3	NOTES/CHANGES MADE Re-ordered uses from least to most intensive
<b>ALL USES</b>										
Houses of worship, religious buildings, parish houses and rectories.									P	Eliminated the entire category
Churches and similar places of worship, Sunday school buildings, parish houses and rectories.		P	P	P	P	P	P	P		Eliminated the entire category
Preserves, parks and playgrounds	P	P	P	P	P	P			P	Added "P" to R-10, R-15, R-22, R-40, R-80 and MFs
Public parks and playgrounds, Recreation facilities, indoor and outdoor, incidental to churches and similar places of worship or to schools.	A	A	A	A	A	A	A	A	P	Eliminated the entire category  Removed text as shown.
Day Camps on lots not less than 10 acres, subject to §290-17D and §290-17AB.	PB	ZBA, PB	ZBA, PB	ZBA, PB	ZBA, PB					Inserted text as shown; Removed ZBA Special Permit from R-80, R-40, R-22, R-15; Added PB Special Permit to R-15, R-22, R-40, R-80, R-160;
Camps, on lots not less than 10 acres, with dormitories, subject to §290-17D and §290-17AB.	ZBA, PB	PB	PB	PB	PB					Inserted text as shown; Removed ZBA Special Permit from R-160; Added PB Special Permit to R-15, R-22, R-40, R-80, R-160.
Community Centers, libraries, museums, art galleries, institutional study centers and similar facilities.	ZBA									Eliminated entire category
Community Centers, libraries, museums, art galleries and similar facilities.	PB	ZBA, PB	ZBA, PB	ZBA, PB	ZBA, PB	ZBA, PB				Changed ZBA to PB
Fire, police and similar public safety buildings	P								P	Eliminated the entire category Immune to Zoning
United States Postal Service post office facilities, fire, police and ambulance stations and other similar public safety buildings.		P	P	P	P	P	P	P		Eliminated the entire category Immune to Zoning
<b>SCHOOLS</b>										
Schools of general instruction without dormitories, except nursery schools.		P	P	P	P	P	P	P	P	Eliminated and added text as shown; added "P" to MFs
Schools of general instruction with dormitories subject to §290-17AB.		PB	PB	PB	PB	PB			PB	Added the category
Nursery Schools, provided that no building areas shall be within 100 ft. of any lot line.	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA		Eliminated entire category
<b>MEDICAL</b>										
Convalescent and nursing homes, and institutions for children and/or the aged, licensed by the State or authorized by the Department of Health of NYS as a residential health care facility whether or not operated for profit, provided that no building is located within 100 ft. of any lot and the lot has an area of at least 4-3 acres.							TB	TB	TB	Eliminated and added text as shown; Added TB to MFs

ALL USES	R-160	R-80	R-40	R-22	R-15	R-10	RG-1	RG-2	MF-1 MF-2 MF-3	NOTES/CHANGES MADE Re-ordered uses from least to most intensive
Public and private hospitals and sanitariums for general medical care, on lots not less than 10 acres in area.	TB									Non-residential; Eliminated entire category; Hospitals are allowed in non residential as follows: LO & H4 inpatient by TB Special Permit; Permitted in PED and Outpatient in H2, H3, H4
Public and private hospitals and sanitariums for general medical care.		TB	TB	TB	TB	TB				Eliminated entire category
Agency boarding homes, agency group homes, agency community residences and residential care facilities for victims of domestic violence.		TB		Eliminated entire category (considered single family)						
Hospice residences on lots with a minimum of 10 acres, subject to §290-17W.	TB	TB								(already considered residence)
<b>RETAIL/COMMERCIAL</b>										
The following Commercial Agriculture Operations, subject to §290-20K. The following commercial agriculture operations provided that there shall be no greenhouse, heating plant, stable or similar animal housing, or the storage of manure of other odor or dust-producing substance or use, except spraying or dusting to protect vegetation, within 200 ft. or any lot line and all equipment is kept within a completely enclosed building.....	P	P	P	P	P					No change
Family day care homes, subject to attached performance standards.	P	P	P	P	P	P				Eliminated entire category; pre-empted
Child day care centers, when accessory to places of worship-a religious institution pursuant to §290-17Z, and subject to site plan approval by the Planning Board, which approved site plan shall accompany the application for special permit.	PB	PB	PBTB	PBTB	PBTB	PBTB	TB	TB	PBTB	Changed text as indicated; removed TB Special Permit; Added PB Special Permit in all districts.
Home occupations, subject to §290-17AC. List of Conditions moved to 29017AC	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA				Changed text as indicated.
Home occupations subject to §290-20I. Home occupation shall be accessory uses by right upon issuance of a permit from the Building Inspector, if the following standards are met:.....	A	A	A	A	A	A				Changed text as indicated.
Professional offices of a doctor, psychologist, dentist, chiropractor, lawyer or accountant, engineer, or surveyor provided that the number of such offices in each development shall not exceed 1 for each 25 dwelling units or major fraction thereof, not to exceed 2,000 square feet per office.							A	A	A	Inserted text as shown; Added "A" to MFs
Sand pits, gravel pits, removal of topsoil and landfill or excavation operations, for a period not to exceed 6 years subject to §290-17L (See attached)		TB		Eliminated entire category						

ALL USES	R-160	R-80	R-40	R-22	R-15	R-10	RG-1	RG-2	MF-1 MF-2 MF-3	NOTES/CHANGES MADE Re-ordered uses from least to most intensive
Buildings for processing and storing agricultural products	A	A	A	A	A					Eliminated entire category
Temporary structures for storage of equipment and materials used in connection with the construction of residential development, and temporary sales offices, not to exceed 2 years. The Building Inspector may extend the time period in one-year increments so long as construction and sales activities are underway.	A	A	A	A	A	A			A	Added "A" to all districts except where it already existed in MFs
Temporary structures for storage of equipment and materials used in connection with the construction of residential development, and temporary sales offices, not to exceed 2 years.	A	A	A	A	A	A	A	A		Consolidated this use with the use listed above to eliminate duplication.
<b>MISCELLANEOUS</b>										
Cemeteries on plots of at least 5 acres subject to approval of the County Legislature.	P	P	P, ZBA	P	P	P	P	P	P	Removed ZBA Special Permit from R-40; Added "P" in R-160 and MFs
Public housing substations or pumping stations and telephone exchanges, housed in a structure that harmonizes with the character of the neighborhood and having adequate fences and other safety devices and adequate screening and landscaping and subject to performance standards procedure of §290-138, provided that they provide service to the surrounding area. (See attached)				ZBA	ZBA	ZBA	ZBA	ZBA		Eliminated entire category
Public utility substations or pumping stations and telephone exchanges, housed in a structure that harmonizes with the character of the neighborhood and having adequate fences and other safety devices and adequate screening and landscaping and subject to performance standards procedure of §290-138, provided that they provide service to the surrounding area.	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA			ZBA	Deleted text as shown, Added ZBA Special Permit to R-22, R-15, R-10 and MFs
Public utility right-of-way, towers and lines, provided that they are necessary for the general welfare; neighborhood character and surrounding property values are reasonably safeguarded; and that the towers and poles conform to the height restrictions of the district.	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	No change
Floodplain uses within areas designated on the Official Map as a floodplain, swamp, drainageway or drainage easement as follows: parking spaces, driveways, open recreation in landscaped areas, signs and fences, provided that said uses do not block, impede or interfere with the natural drainage of the area so as to increase the danger of flooding down or upstream from the lot.	TB	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	ZBA	TB	Eliminated entire category

ALL USES	R-160	R-80	R-40	R-22	R-15	R-10	RG-1	RG-2	MF-1 MF-2 MF-3	NOTES/CHANGES MADE Re-ordered uses from least to most intensive
<del>Reservoirs on lots of 6 acres or more and water towers and water tanks owned and operated by a public utility, which water tank or water tower is located at or above ground, on plots of 6 acres or more.</del>	TB									Deleted text as shown
Reservoirs on lots of 3 acres or more and Water towers and water tanks owned and operated by a public utility, which water tank or water tower is located at or above ground, on plots of 3 acres or more.	TB	TB	TB	TB	TB	TB			TB	Deleted text as shown; Added TB Special Permit to R-160 and MFs
<b>MISCELLANEOUS ACCESSORY USES</b>										
Accessory parking, subject to Article 6 and Table 2, Residential Zoning Districts Parking and Loading Requirements, and the requirements of Column 8. All parking spaces (whether open or closed) shall be restricted to the parking of private passenger cars and maintenance vehicles or minibuses serving the property. (See attached)	A	A	A	A	A	A			A	Text to be inserted to 290-22; Added "A" to R-160, R-80, R-40, R-22, R-15, R-10
<del>Accessory parking, subject to §290-22. (See attached)</del>	A	A	A	A	A	A	A	A		Eliminated entire category
Accessory loading, subject to Article 6 and Table 2, Residential Zoning Districts Parking and Loading Requirements. §290-23.	A	A	A	A	A	A	A	A	A	Deleted and added text as shown; Added "A" to R-10
<del>Any other similar accessory use, subject to approval of the Board of Appeals.</del>	A	A	A	A	A	A	A	A		Eliminated entire category