

**INTRODUCTORY LOCAL LAW # \_\_\_ OF 2019**  
**A LOCAL LAW AMENDING SECTIONS 310-2, 310-12, 310-67, 310-70 AND 310-89 OF CHAPTER**  
**310 OF THE SCARSDALE VILLAGE CODE**  
**ENTITLED ZONING**

**BE IT ENACTED** by the Board of Trustees of the Village of Scarsdale as follows:

Section 1: Purpose and Intent: The Board of Trustees finds that it is necessary to regulate commercial sale, storage, possession and display of firearms, ammunitions and explosives pursuant to 139-d of the General Municipal Law in order to provide for the public health, safety and welfare of the persons in the Village of Scarsdale. The Board of Trustees finds that the location of such activities close to educational and religious uses is not compatible with such uses and can pose a danger to residents through fire or explosion, or as a result of burglaries and robberies at such locations. The Board of Trustees intends to regulate the location of such activities and to place additional regulations upon those activities in order to assure that such activities are conducted in a safe manner. The regulations found herein shall be in addition to Federal, State and County Law and regulations.

Additionally, the Board of Trustees finds that it is necessary to regulate commercial sale, storage and display of ENDS and ENDS components and parts pursuant to 139-d of the General Municipal Law in order to provide for the public health, safety and welfare of the persons in the Village of Scarsdale. The Board of Trustees finds that the location of such products close to educational, religious, and other uses frequented by youth is not compatible with such uses and can pose a danger to residents. The negative health effects of tobacco products has been well researched and documented. ENDS products pose a specific threat to young persons in the Village of Scarsdale through their unique appearance and marketing. Studies have shown a relationship between the density and proximity of the marketing and sales of tobacco products, including ENDS products, to schools and other locations frequented by youth and the likelihood of youth using these products, as well as changing the attitudes of young people towards these products to the detriment of their health. Furthermore, the Board of Trustees intends to regulate the location of such activities and to place additional regulations upon these activities in order to deter youth in Scarsdale from using ENDS products. The regulations found herein shall be in addition to Federal, State and County Law and regulations.

Section 2: Chapter 310 of the Scarsdale Village Zoning Code is hereby amended as follows:

**§ 310-2. Definitions.**

The words and phrases set forth below have the following meanings when used in this chapter:

**AMMUNITION**

Cartridge cases, primers, bullets, or propellant powder designed for use in any firearm.

## **BUILDING**

Any structure having a roof supported by columns or walls and intended for the shelter, housing or enclosure of persons, animals or chattels.

## **BUILDING, ACCESSORY**

A separate building, such as a private garage, private toolhouse, studio, gazebo, children's playhouse or a noncommercial greenhouse, which is accessory to a principal building on the same lot and which is used for purposes customarily incidental to those of the principal building. Where an accessory building is located within 10 feet of the principal building, unless located in the rear yard of a lot which is less than 110 feet in depth, such accessory building shall be considered part of the principal building for setback purposes.

## **BUILDING, NONRESIDENTIAL**

A building which is used primarily for other than residential purposes.

## **COMMERCIAL SALE OF ENDS**

The sale of one or more ENDS.

## **COMMERCIAL SALE OF ENDS COMPONENTS AND PARTS**

The sale of one or more ENDS components and/or parts.

## **COMMERCIAL SALE OF FIREARMS**

The sale of one or more gun, pistol, or any other firearm capable of discharging ammunition.

## **COURT**

An open unoccupied space other than a yard on the same lot with a building and bounded on at least three sides by such building. An outdoor court is a court which for its full required minimum width opens without obstruction on a street or on an unoccupied space at least 15 feet wide on the same lot and adjoining a boundary line of such lot and which court has a maximum horizontal dimension not exceeding twice its width. An "inner court" is any court other than an outer court.

## **CURB LEVEL**

For the purpose of measuring the height of a building, the mean of the established curb level in front of the building. If no curb exists, the curb level shall be deemed to be the mean of the established grade at the center line of the street in front of the building. If the lot is higher than the curb level as defined above, the average level of the finished grade of the lot along the front wall of any building to be erected thereon may be taken as the curb level for the purpose of determining all vertical measurements. If a lot fronts on two or more streets of different levels, the mean curb level of the highest street may be taken as the curb level for the purpose of determining all vertical measurements within a

distance of 120 feet back from the street line of the highest street. If a building exceeds 100 feet in length along a street, each 100 feet thereof shall conform to the highest regulations of this chapter, and the curb level, for the purpose of determining the permitted height, shall be the mean curb level in front of each 100 feet of such building.

## **DWELLING UNIT**

The quarters designed to be used as a dwelling by one family.

## **ELECTRONIC NICOTINE DELIVERY SYSTEM (ENDS)**

Noncombustible tobacco products that use an electronic or other power source to heat e-liquids, tobacco, or other material derived from tobacco to create an aerosol, including but not limited to vapes, vaporizers, vape pens, hookah pens, electronic cigarettes, and e- pipes.

## **ELECTRONIC NICOTINE DELIVERY SYSTEM (ENDS) COMPONENTS AND PARTS**

Products used in conjunction with ENDS, including but not limited to e-liquids, atomizers, cartridges, cartomizers and clearomizers, tank systems, drip tips, and flavorings for ENDS.

## **FAMILY**

Any number of individuals, related by blood, marriage or adoption, or not more than five individuals who are not so related, living together as a single housekeeping unit, using rooms and housekeeping facilities in common and having such meals as they may eat at home prepared and eaten together.

## **FENCE**

A structure of wood, metal or plastic, or any combination thereof, erected to enclose, separate, divide or define a lot or a portion thereof.

## **FIREARM**

Any firearm as defined in 18 U.S.C. 921(a)(3), "antique firearm" as defined in 18 U.S.C. 921(a)(16), and the components, parts and accessories thereof.

## **FLAT ROOF**

A flat roof is one with a rise of not more than 1/2 inch per foot.

## **FLOOR AREA RATIO**

The gross floor area on a lot divided by the gross lot area. Any area of land dedicated to the Village of Scarsdale for parking, roadway widening or traffic circulation purposes, if contiguous to the lot or within 200 feet therefrom, shall be calculated as a part of gross lot area for FAR purposes. If part of a lot is used for railroad tracks, 1/2 of the area so used

may be counted in calculating the gross floor area permitted on the lot, provided that construction is actually proposed over such railroad track area or such area above the tracks is permanently preserved for open space purposes.

### **GARAGE, PUBLIC**

A garage operated for gain, whether or not it is available to the public generally.

### **GROSS FLOOR AREA**

The sum of the gross horizontal areas of all floors of a building measured to the exterior of the outside walls of the building, but excluding any floor area housing building mechanical equipment, basement storage to which the public is not admitted and floor area devoted to required or incentive off-street parking and loading facilities.

### **GROSS LEASABLE FLOOR AREA**

The total floor area designed for tenant occupancy and exclusive use on all floors, including mezzanines, but excluding floor area used for parking or for basement storage to which the public is not admitted, measured from the center line of joint partitions and from the interior of outside walls and walls adjoining common areas, such as hallways, elevator shafts, etc.

### **GROSS LOT AREA**

The total horizontal area included within the property lines bounding a lot.

### **GROUND FLOOR**

Any floor or floors designed to provide direct access to a street or to a public pedestrian area adjacent to a street, with less than half a story of grade change from such street.

### **HEIGHT**

For buildings in Residence A District, the vertical distance measured, in the case of a building with a flat roof, from the proposed final grade or the existing grade, if that is lower, along the perimeter of the building to the level of the highest point of the roof beams and, in the case of a building with a pitched roof, from the proposed final grade or the existing grade, if that is lower, along the perimeter of the building to the level of the point midway between the peak and the plate of the highest section of the roof. For buildings in all other districts, "height" is the vertical distance measured, in the case of a building with a flat roof, from the curb level to the level of the highest point of the roof beams and, in the case of a building with a pitched roof, from the curb level halfway between the top of the plate and the ridge.

### **HOME OCCUPATION**

See Article XI.

## **LINE, FRONT LOT**

The "front lot line" of a lot which is not a corner lot is its street line or, if such lot extends through a block, the street line from which the principal building sets back the lesser distance. However, in the case of a lot no part of which adjoins any street, "front lot line" is the boundary line of such lot which is designated as such in an application for a permit to erect or alter a building on such lot or, if not so designated, the boundary line which is nearest and most nearly parallel to a street, or as designated by the Planning Board pursuant to § **A319-27L**. In the case of a corner lot, the "front lot line" is the front street line, as designated in an application for a permit to erect or alter a building on such lot or, if not so designated, the street line from which the principal building sets back the greatest distance or, if its setback is equal distance from two or more street lines, the street line which is nearest to the main entrance of the principal building.

## **LINE, REAR LOT**

The lot boundary line which is opposite and most distant from the front lot line or, in the case of a lot which is irregular in shape, the lot boundary line which is most nearly parallel to and at the greatest average distance from the front lot line, or as designated by the Planning Board pursuant to § **A319-27L**.

## **LINE, SIDE LOT**

Any lot boundary line which is not a front lot line or a rear lot line.

## **LINE, STREET**

The boundary between a lot and the edge of street right-of-way shown on the official map of the Village and/or on a filed map in the office of the Westchester County Clerk, regardless of whether such right-of-way is a public street, a private street open to public use or an undeveloped street.

## **LOT**

A parcel or plot of land shown on a plat filed in the County Office of Land Records and occupied or designed to be occupied by one principal building and its accessory buildings if any, including such yards or open spaces as are arranged or designed to be used in connection with such buildings.

## **LOT, DEPTH OF**

The mean horizontal distance from its front lot line to its rear lot line, measured in the general direction of its side lot lines.

## **LOT, IMPROVED**

A lot on which a building or buildings stand. An "unimproved lot" is a lot on which no building stands.

## **LOT, WIDTH OF**

The mean width of a lot measured at right angles to its depth.

## **NEAREST TO LOT LINE**

- A.** In determining the part of a building or story thereof which is nearest to a particular lot line, there shall be disregarded, if such building is in any residence district, the below-specified portion nearest to such lot lines of the following parts of such building or story:
- (1)** Windowsill, belt courses or other ornamental features: six inches.
  - (2)** Cornices: three feet.
  - (3)** In the case of a front lot line, bay windows on the ground story, not aggregating in width more than 1/3 of the frontage of the building: three feet.
  - (4)** In the case of a front or rear lot line, an open porch or stoop on the ground story: five feet. In the case of a front lot line, such open porch may have a roof that is supported by columns, but may not be enclosed or screened on the sides or front, and is limited to a width of no more than four feet wider than the entry door and a height of no more than 1 1/2 stories. The roof may not extend past the five-foot allowance.
- B.** There shall be disregarded, if such building is in a Residence C District or a business district, the below-specified portion nearest to such lot line of the following parts of such building or story:
- (1)** In the case of a side or rear lot line, chimneys, each not exceeding 10 square feet in horizontal cross section: two feet.
  - (2)** In the case of a side or rear lot line, a fire escape, outside stairway or balcony to a fire tower, as permitted by Chapter **132**, Building Construction and Fire Prevention, of this Code: five feet.

## **PARKING SPACE FOR ONE MOTOR VEHICLE**

An area available for parking an automobile, exclusive of adequate ingress and egress driveways and aisles, subject to the requirements specified in § **310-70**.

## **PERMANENT STANDBY GENERATOR**

A backup electrical system powered by a permanent fixed fuel source, including but not limited to natural gas, liquid propane or diesel that has:

- A.** An automatic transfer switch; and

- B. Is installed in compliance with all federal, state and local laws, including the New York State Uniform Fire Prevention and Building Code (including all referenced codes and standards), as amended from time to time.

### **PERSONAL SERVICE ESTABLISHMENT**

An establishment engaged in providing services generally to individuals, such as a dry cleaner, beauty salon, barbershop, shoe repair shop, portrait photographic studio and other such similar uses.

### **PROFESSIONAL OFFICE**

The office of a professional engineer, architect, landscape architect, surveyor, certified public accountant or attorney.

### **RESIDENCE PURPOSES**

A building or a part thereof shall not be deemed to be "used for residence purposes" unless it is used for such purposes by persons other than a janitor or caretaker of such building or the family of such janitor or caretaker.

### **RESTAURANT, FAST-FOOD**

A business enterprise primarily engaged in the retail sale of meals selected by patrons from a limited number of prepared, specialized items, such as but not limited to hamburgers, chicken, fish and chips, pizza, tacos and hot dogs, for consumption either on or off the premises, served in disposable containers in a facility where the major portion of the sales to the public is by drive-in or stand-up service.

### **RETAIL STORE**

An establishment engaged in selling merchandise for personal or household consumption and rendering services incidental to the sale of the goods, excluding the commercial sale, delivery and/or transfer of firearms, ammunitions, ENDS, and/or ENDS components, and parts.

### **SEMIPUBLIC USE**

Any religious or private educational use permitted in a residence district, as well as office, meeting and similar facilities of charitable, fraternal and community organizations.

### **SETBACK**

The shortest horizontal distance from a lot line to the part of the building or of the story which is nearest to such lot line.

**SOLID**

As applied to fences, walls and retaining walls, having less than 50% open space when viewed from a position which is at a right angle to the face of the fence, wall or retaining wall.

**STORY**

That part of a building included between any floor and the floor next above or, if there is no floor above, the ceiling or flat roof above.

**STORY, FIRST**

For the purpose of determining a building's height in stories, the lowest story whose exterior walls or at least all of the area of one and at least 80% of the area of each of the remaining exterior walls are entirely above the level of the ground adjacent to the building.

**STREET**

A road or highway, available for use as a thoroughfare by the public generally, which affords the means of access to adjoining property.

**STRUCTURE**

An assembly of materials forming a construction designed for useful purposes, including, among others, buildings, stadiums, swimming pools, tennis courts, handball walls, decks, balconies, signs, radio towers, water tanks, storage sheds, equipment pads and shelters.

**SWIMMING POOL**

Any body of water or receptacle for water having a depth at any point greater than two feet, used or intended to be used for swimming or bathing, and constructed, installed or maintained in or above the ground outside any building.

**TELEPHONE EXCHANGE**

A telephone company central office in which lines are connected to permit telecommunications service. Such central office does not serve as a supply depot or dispatch point for external work orders for a telephone company or as a manufacturing or repair facility or include wholesale distribution operations or retail sales or include storage of trucks or other industrial equipment.

**WALL**

A structure of wood, stone, brick, concrete or other masonry materials or any combination thereof, more than two feet high, erected to enclose, separate, divide or define a lot or a portion thereof.



## **WALL, RETAINING**

A wall designed to retain or resist the lateral displacement of earth or other materials, whether or not it serves to enclose or subdivide any part of the lot on which it is located.

## **YARD, FRONT**

The space within and extending the full width of the lot from the front lot line to the part of the principal building which is nearest to such front lot line.

## **YARD, REAR**

The space within and extending the full width of the lot from the rear lot line to the part of the principal building which is nearest to such lot line.

## **YARD, SIDE**

The space within the lot extending the full distance from the front yard to the rear yard and from the side lot line to the part of the principal building which is nearest to such side lot line.

## **§ 310-12. Village Center Area Districts**

**B.** Village Center Area Zones. The following separate zones applying to specific areas are hereby established within the framework of the Village Center Area District for the purposes specified and in accordance with the regulations as set forth for each:

**(1)** VillageCenterRetail-2.0(VCR-2.0).

**(a)** It is the purpose of this zone to preserve the existing architectural character while reflecting the present nature and intensity of land use in the heart of the Scarsdale Village Center Area and at the same time strengthening its pedestrian shopping pattern. It is recognized that the historical development pattern in this zone is such that the only available parking for existing developed properties is, and will continue to be, that provided in Village parking facilities. However, any proposals for additional building development or for conversion from residential to commercial use should be permitted only if all off-street parking requirements which would result from such an approval can be satisfied on private property by the applicant. The permitted uses within this zone are intended to balance its land use function with its parking limitations.

**(b)** In the Village Center Retail - 2.0 Zone, no building or premises shall be used or maintained and no building shall hereafter be erected, enlarged or altered if, as so erected or as a result of such enlargement or alteration, such building or any part thereof is arranged, designed or intended to be used for any except the following principal purposes:

**[1]** Ground floor: retail stores, personal service establishments, commercial sale, delivery and/or transfer of firearms, ammunitions, ENDS and/or ENDS components and parts subject to the requirements specified in § 310-89, restaurants and other places serving food or beverages (except fast-food restaurants), and public and semipublic uses, excluding any type of drive-up commercial facility.

**[2]** Upper floors: ground-floor uses, plus professional, medical and dental, business and administrative offices and residences.

**[3]** Receive-only satellite dish antennas of a diameter of one meter or less when mounted on the roof.

**(2)** Village Center Retail - 1.0 (VCR - 1.0).

**(a)** It is the purpose of this zone to encourage the continuation of the present pattern of land use and development in a portion of the Scarsdale Village Center Area which forms an extension of a business district primarily located in the adjacent area of the Town of Eastchester. It is recognized that the historical pattern of building development in this area precludes any substantial provision of on-site parking and that the primary responsibility for meeting those needs will continue to rest with the Village. Any proposal for additional building development or for conversion from residential to commercial use should be permitted only if all off-street parking requirements which would result from such an approval can be satisfied on private property by the applicant.

**(b)** In the Village Center Retail - 1.0 Zone, no building or premises shall be used or maintained and no building shall hereafter be erected, enlarged or altered if, as so erected or as a result of such enlargement or alteration, such building or any part thereof is arranged, designed or intended to be used for any except the following principal purposes:

**[1]** Ground floor: retail stores, personal service establishments, commercial sale, delivery and/or transfer of firearms, ammunitions, ENDS and/or ENDS components and parts subject to the requirements specified in § 310-89, restaurants and other places serving food or beverages (except fast-food restaurants), and public and semipublic uses, excluding any type of drive-up commercial facility.

**[2]** Upper floors: ground-floor uses, plus professional, medical and dental, business and administrative offices and residences.

**[3]** Receive-only satellite dish antennas of a diameter of one meter or less when mounted on the roof.

**§ 310-67 Nonconforming uses, lots and buildings.**

**[Amended 7-15-1975 by L.L. No. 4-1975; 3-14-1989 by L.L. No. 6-1989; 3-12-1991 by L.L. No. 1-1991; 9-27-1994 by L.L. No. 9-1994; 5-23-1995 by L.L. No. 7-1995; 4-8-1997 by L.L. No. 3-1997; 1-23-2001 by L.L. No. 1-2001; 5-13-2008 by L.L. No. 3-2008; 1-13-2015 by L.L. No. 1-2015]**

**A.** Nonconforming uses. Nonconformity of any use with any provision of this chapter shall not be a violation of this chapter if such use existed on March 1, 1957, and was permitted by the Zoning Ordinance in effect immediately prior to that date or if the use was permitted on the effective date of any modification of this chapter which rendered the use nonconforming. Such use shall be permitted to continue subject to the provisions of Subsection **D(3)** of this section and the following conditions:

- (1)** No building housing a nonconforming use may be enlarged or altered structurally, except as may be required or permitted by law. For the purposes of this section, an increase in the fuel storage capacity of a service station is not considered to be an expansion of a nonconforming use.
- (2)** No such nonconforming use shall be enlarged or extended, nor shall it be changed to another nonconforming use, nor shall it be moved to another building (either conforming or nonconforming).
- (3)** No such nonconforming use, if changed to a use which conforms to the provisions of this chapter, shall be changed to a nonconforming use.
- (4)** No such nonconforming use that shall have ceased for six months or longer, whether or not with intent to abandon, shall be resumed.
- (5)** Any otherwise legal, preexisting, nonconforming use in a residential district may be continued, subject to the issuance of a special use permit by the Board of Appeals for residential uses or by the Planning Board for nonresidential uses.
  - (a)** The initial application for such nonconforming use special use permit shall be filed by the owner of the property within one year of the effective date of this subsection or, if later, the effective date of the applicability of this subsection to a particular nonconforming use. If the initial application is not so filed, it may be initiated at any time by the Village or by the owner of any property, any part of which is within 300 feet of any part of the property on which a nonconforming use exists or is asserted to exist.
  - (b)** Upon the filing of an application or other initiation of the nonconforming use special use permit process, the Board of Appeals or the Planning Board, as applicable, shall, after a public hearing, determine:
    - [1]** Whether a nonconforming use exists on the site.

**[2]** If such nonconforming use exists, what terms and conditions applied to the lawful use of the property immediately prior to the date upon which the use became nonconforming.

**[3]** Whether the use of the property at the time of the special use permit proceeding is in full compliance with such immediately prior terms and conditions. In making this determination, the applicable board shall consider all factors which may be pertinent under such immediately prior terms and conditions, which in particular cases may include, without limitation, building design, functional uses, emissions (noise, vibration, smoke, dust, odors or others), hours of operation, off-street parking, traffic, lighting, landscaping and screening.

**(c)** If the applicable board determines, pursuant to Subsection **A(5)(b)[3]** above, that there is a nonconforming use and that such use of the property at the time of the special use permit proceeding is in full compliance with the aforementioned immediately prior terms and conditions, it shall grant the nonconforming use special use permit, setting forth the immediately prior terms and conditions so determined, which are to continue to pertain as long as the nonconforming use is lawfully continued.

**(6)** Any commercial sale, delivery and/or transfer of firearms, ammunitions, ENDS and/or ENDS components and parts which was lawful prior to the adoption of § 310-89(11) and § 310-89(12) shall be deemed a nonconforming use. These nonconforming uses will be permitted to continue for a period not to exceed 12 months unless sooner terminated pursuant to another provision of § 310-67.

**B.** Construction on nonconforming unimproved lots.

**(1)** An unimproved lot, that does not conform to the requirements of § **310-14** and § **310-15A**, is merged with an adjoining improved or unimproved lot if that lot is owned or controlled by the same owner of the adjoining improved or unimproved lot, unless said unimproved lot meets the requirements noted in Subsection **B(2)** or **(3)** below.

**(2)** A building may be erected, altered or maintained on a lot in accordance with the setback and lot coverage requirements of this Code, subject to the special setback provisions of § **310-18** or **310-36**, even if the lot does not conform to § **310-14** or § **310-15A**, provided that the following lot criteria are met:

**(a)** On April 1, 1947, the lot conformed to the Zoning Ordinance in effect immediately prior to that date and the lot was shown on a plat filed in the County Office of Land Records; and

- (b) The lot was not reduced in area after February 1, 1947; and
- (c) The lot has an area of at least 75% of the current requirement; and
- (d) The lot has a width and length of streetline frontage of at least 85% of the current requirement.

(3) A building may be erected, altered or maintained on a lot in accordance with the setback and lot coverage requirements of this Code, subject to the special setback provisions of § 310-18 or § 310-36, if a lot is rendered nonconforming by any amendments to the Zoning Map (§ 310-4) adopted after October 2000, provided that the lot meets the following criteria:

- (a) The lot conformed to the Zoning Ordinance in effect immediately prior to the effective date of the amendment; and
- (b) The lot was not reduced in area in the month prior to the effective date of any amendment; and
- (c) The lot has an area of at least 65% of the current requirement; and
- (d) The lot has a width and length of streetline frontage of at least 80% of the current requirement.

C. Construction on nonconforming improved lots.

(1) Subject to the special setback provisions of § 310-18, a building may be enlarged, altered or maintained on a lot in accordance with the setback and lot coverage requirements of this Code even if the lot does not conform to § 310-14 or § 310-15A, provided that the following criteria are met:

- (a) A building existed on the lot that on April 1, 1947, conformed to the Zoning Ordinance in effect immediately prior to the date; and
- (b) The lot was not reduced in area after February 1, 1947.

(2) Subject to the special setback provisions of § 310-18 and § 310-36, and Subsection D(1) of this section, if applicable, an existing building may be enlarged, altered or maintained on a lot in accordance with the setback and lot coverage requirements of this Code if the lot is rendered nonconforming by zoning amendments to the Zoning Map (§ 310-4) adopted after October 2000, provided that the lot meets the following criteria:

- (a) The building conformed to the Zoning Ordinance in effect immediately prior to the effective date of the amendment; and

(b) The lot was not reduced in area in the month prior to the effective date of any amendment.

- D. Nonconforming buildings. Nonconformity of any building shall not be a violation of this chapter if such building existed on March 1, 1957, and was permitted by the Zoning Ordinance in effect immediately prior to the date or if the building was permitted on the effective date of any modification of this chapter which rendered the building nonconforming. Such nonconforming building shall be permitted to continue, subject to the following conditions:
- (1) No such building which is nonconforming with respect to height, area of lot occupied or setback from any lot line shall be enlarged in any respect as to the portion thereof which is nonconforming, subject to the provisions of this chapter and § 310-18 or § 310-36. Notwithstanding the foregoing, alterations of the portion thereof which is nonconforming, but which would not increase the existing nonconformity, shall be permitted.
  - (2) No such nonconforming building, if changed to a conforming building which conforms to the provisions of this chapter, shall be changed to a nonconforming building.
  - (3) No such nonconforming building, if all or substantially all thereof is destroyed due to any cause, shall be restored in a nonconforming form or location or for the continuance of a nonconforming use, except that such a building, if destroyed accidentally due to fire, explosion or other cause, may be restored in substantially the same form and location, but without enlargement, for a conforming use or the continuance, but without enlargement, of the nonconforming use. This provision shall not apply to the lot coverage limitations of § 310-20 through § 310-23 when one nonconforming impervious surface such as a driveway, walk or patio is being replaced without expansion with another impervious surface.

Editor's Note: Section 14 of this local law provided as follows:

"This local law shall not prevent the issuance of a permit for any new building, building addition or alteration in compliance with the laws in effect prior to the effective date hereof for which a complete application was submitted prior to such date." (This local law became effective April 4, 1991.)

#### **§ 310-70. Off-street parking.**

- A. The following is the minimum number of off-street parking spaces which shall be provided and maintained on private premises by the owner thereof for each use of land or buildings which is hereafter enlarged, altered, changed or created, except as such requirements may be modified elsewhere in this chapter.
- (1) Apartment: one space for each 750 square feet of gross residential floor area.
  - (2) Hotel or lodging house: one space for each guest sleeping room.

- (3) Auditorium or place of assembly in which seats are provided for 25 persons or more in the main assembly room on the premises of a church or other place of worship, club, lodge, community center building or in a school, college, academy, seminary, library, museum, stadium, athletic field, theater or other similar place of assembly: one space for each four seats which are so provided.
- (4) Restaurant or other place serving food or beverages: one space for each 75 square feet or major fraction thereof of gross leasable floor area, except in the Village Center Area District described in § 310-12, where the parking requirements for a restaurant or other place serving food or beverage is one space for each 150 square feet or major fraction thereof of gross leasable floor area.
- (5) Recreation facility, health or exercise club: one space for each employee, plus one space for each player or participant when the facility is operating at maximum capacity.
- (6) Retail store or shop, commercial sale, delivery and/or transfer of firearms, ammunitions, ENDS and/or ENDS components and parts, or personal service establishment: one space for each 150 square feet or major fraction thereof of gross leasable floor area on the first floor and one space for each 250 square feet or major fraction thereof of gross leasable floor area on all other floors.
- (7) Bank: 10 spaces, plus five spaces for each teller in excess of two, but in no case less than the number which would be required for a retail store. Where drive-up teller services are provided, a minimum of five queuing spaces shall be provided for each drive-up teller window in addition to the space at the teller window itself.
- (8) Office: one space for each 200 square feet or major fraction thereof of gross leasable floor area, except one space for each 150 square feet or major fraction thereof of gross leasable floor area for medical, dental and real estate offices.
- (9) Gasoline station: five spaces, or five spaces per service bay, whichever requirement is greater.
- (10) Group training or instruction: one space for each employee, plus two spaces for each three students or participants, but in no case less than the number which would be required for a retail store.
- (11) For all land and building uses which do not fall within the categories listed in Subsection A(1) through (10), the Planning Board, based upon a consideration of the above standards in relation to the estimated parking generation characteristics of the proposed use, shall establish such off-street parking requirements as it may determine reasonable and appropriate in each individual case.
- (12) Single-family houses in a Residence AA-1, A-1, A-2, A-2a or A-3 District: two spaces.

## **§ 310-89. Nonresidential special use permits.**

- A.** The special uses for which conformance to additional standards is required by this section shall be deemed to be permitted uses in the respective districts, subject to the satisfaction of the requirements, standards and safeguards set forth herein, including such additional requirements as may be specified by the Planning Board, provided that the Board determines the individual use in harmony with the general purposes and intent of the Zoning Code. All such uses are declared to possess characteristics of such a unique and special nature that each specific use shall be considered as an individual case. The Planning Board will give public notice and hold a hearing on each application prior to approval of a special use permit, which hearing will be combined with the hearing on a site plan application as provided in Chapter 251 of this Code. The Board may also:
- (1)** Permit, in any residence district, a private school, including a parochial grade school, middle school or high school, or a college, academy or seminary; a club, lodge or community center building, except one whose chief activity is a service customarily carried on as a gainful business; or, subject to due consideration of the needs of the Village for public health and safety, a hospital, sanatorium or nursing home, not including, however, any such institution to be used for the care or treatment of animals; all subject to the provisions of § **310-7F** and the provisions of § **310-70** and Chapter **251**, Site Plan Review, of this Code.
  - (2)** Permit the continuance of a legal, preexisting, nonconforming nonresidential use in a residential zoning district pursuant to § **310-67** of this chapter.
  - (3)** Permit required parking spaces to be provided and maintained other than on the same lot with the building or premises for which such parking spaces are provided, subject to the provisions of § **310-70A(11)** of this chapter.
  - (4)** Permit parking areas and playgrounds of a public, private or parochial grade school, middle school or high school or church or other place of worship to be provided and maintained other than on the same lot with the principal building, upon a determination that such use is consistent with the public health, safety, morals and general welfare of the community, subject to the provisions of § **310-70** of this chapter.
  - (5)** Permit, in the VCO - 0.8 and PUD - 1.0 to 2.0 Districts, a service station or public garage, upon a determination that the arrangement and location thereof are not inconsistent with the public health, safety or general welfare of the community, subject to the provisions of § **310-12B(5)** and **(7)** of this chapter, provided that such use meets the following requirements:
    - (a)** The number, size, type, arrangement and location of the fuel dispensers, lighting fixtures, storage tanks and other fixed equipment shall be approved by the Planning Board. There shall be no canopy larger than necessary to cover the fuel dispensers.



- (b)** All fuel storage tanks shall be underground outside of any building.
  - (c)** No pump, tank or service appliance shall be nearer than 20 feet to any street line.
  - (d)** The incidental operation of an automobile rental business is considered an acceptable accessory use for such station, provided that such business use shall have been approved by the Planning Board as not inconsistent with the public health, safety and general welfare of the community.
  - (e)** No more than 50 square feet may be devoted to the sale of prepackaged merchandise unrelated to servicing motor vehicles.
- (6)** Permit offices for physicians or dentists, irrespective of the residence of the personnel of such offices:
- (a)** Provided that the Board shall determine in each case that the proposed offices:

    - [1]** Will not create or seriously aggravate a traffic or other hazard.
    - [2]** Will not be incongruous or detrimental to the prevailing residential character of the neighborhood.
    - [3]** Will not impair the use, enjoyment or value of adjacent residential properties.
    - [4]** Will in general be consistent with the public health, safety, morals and general welfare of the community.
  - (b)** Provided, further, that such use meets the following requirements:

    - [1]** All parts of the lot on which such offices are located must be within 600 feet of property zoned by the Village, as of August 30, 1957, for business uses.
    - [2]** The lot on which such offices are located must have a minimum area of one acre and both a width and length of street line frontage of at least 150 feet.
    - [3]** The building housing such offices must not exceed one story, except that a second story penthouse is permitted on the main building, provided that it does not exceed 12% of the gross floor area of the first floor of the building and is set back no less than 20 feet from the walls of the first story.

- [4]** The building(s) must not exceed 20 feet in height above the average level of the finished grade adjacent to the building, the gross floor area may not exceed 10,000 square feet and must have at least the following setbacks from lot lines:
  - [a]** Thirty feet from the front lot line, all of which shall be landscaped with evergreen screening in accordance with a plan approved by the Planning Board.
  - [b]** Ten feet from the side lot line, which must be landscaped with evergreen screening if and as required by the Planning Board.
  - [c]** Thirty feet from the rear lot line, of which not less than the first 10 feet contiguous to such rear lot line shall be landscaped with evergreen screening if and as required by the Planning Board.
- [5]** The buildings must be architecturally designed to harmonize with surrounding residences.
- [6]** The buildings must not provide overnight accommodations, except in cases of emergency.
- [7]** The buildings may not be occupied by more than eight physicians or dentists at any one time, regardless of whether they are employed by the primary occupant of the buildings or employed by others.
- [8]** Off-street parking shall be provided, with a minimum number of parking spaces prescribed by the Planning Board pursuant to § 251-2 of Chapter 251, Site Plan Review, of this Code, which number may not be less than 10 parking spaces for each of the maximum number of physicians or dentists permitted to use such building at any one time.

**(c)** The Planning Board may set time limits on the length of the permit and the hours of operations.

- (7)** Permit an outdoor off-street parking lot in a Buffer Parking District for use in connection with existing or proposed business buildings on adjacent property zoned for business and under the same ownership, provided that, after considering the need for a parking lot in the area and the extent to which land in the area should be used to satisfy such need, existing parking and traffic conditions in the surrounding area, the public health, safety and general welfare and the comfort and convenience of the public, a majority of the entire Board as if there were no vacancies shall determine in each case that:

- (a)** Such parking lot will improve parking and traffic conditions in the area.
- (b)** Such parking lot will not create hazards affecting the public safety.
- (c)** Such parking lot will not seriously impair the value, use and enjoyment of neighboring residential properties.

**(8)** (Reserved)[1].

**(9)** Permit, in a Residence A, Business A or Village Center Area District, a service station, but only in cases of existing legally nonconforming service stations or those operating under previous variances approved by the Board of Appeals, upon a determination that the arrangement and location thereof are not inconsistent with the public health, safety or general welfare of the community. The Planning Board may set a time limit on the length of the permit and the hours of operations. Such use shall meet the following requirements:

- (a)** The number, size, type, arrangement and location of the pumps, lighting fixtures, storage tanks and other fixed equipment shall be approved by the Planning Board.
- (b)** All fuel storage tanks shall be underground outside of any building.
- (c)** No pump, tank or service appliance shall be nearer than 20 feet to any street line.
- (d)** No servicing of vehicles shall be permitted outdoors, other than for fuel, oil, tires, air and water.
- (e)** No outdoor display or vending of merchandise other than cans of oil in racks shall be permitted.
- (f)** No temporary signs, such as but not limited to pennants, pinwheels, banners and flashing lights, shall be permitted.
- (g)** In the Residence A and Business A Districts, the following additional requirement shall apply:
  - [1]** No outdoor parking of vehicles overnight unless specifically approved by the Planning Board.

- (10) Permit, in the Business A, VCO - 2.0, VCO - 0.8 and PUD 0.8 - 1.4 Districts, a telephone exchange, provided that such use meets the following requirements:
- (a) On site, off-street parking for employees and visitors, as may be required by the Planning Board pursuant to §§ 310-70A(11), B and C.
  - (b) Landscaping and building design, as may be required by the Planning Board, using the general guidelines contained in § 310-12C(3).
  - (c) Uses of the building are limited to those outlined in the definition of "telephone exchange" in § 310-2. There may be no office or other uses beyond those that are reasonably related to the functions of a telephone exchange and for the employees permanently based in the building.
- (11) Permit, in the VCR -1.0 District, commercial sale, transfer and/or delivery of firearms, provided that such use meets the following requirements:

(a) Location

The commercial sale, delivery and/or transfer of firearms and/or ammunitions shall not be located within 250 feet of any public or private school, nursery school, day care center, playground, or house of worship, nor within 250 feet of any other establishment engaged in the commercial sale, delivery, and/or transfer of firearms and/or ammunitions. Such distance shall be measured from the nearest point of the portion of the building or structure engaged in the commercial sale, delivery and/or transfer of firearms and/or ammunitions to the nearest point of the lot line of the property with a public or private school, nursery school, day care center, playground, house of worship, or building or structure engaged in the commercial sale, delivery and/or transfer of firearms and/or ammunitions.

(a) Storage when open for business.

(1) All ammunition when being displayed shall be kept in a locked case or behind the counter in an area not accessible to the public.

(2) No firearm shall be stored, exhibited, or displayed in windows of the premises.

(3) All firearms shall be located in a locked display case, counter or storage area, which the public shall not have access to. The keys or codes to such areas shall not leave the control of authorized personnel.

(b) Storage when not open for business shall be in accordance with one of the following:

(1) All firearms shall be stored in a locked fireproof safe or vault located within the business premises;

- (2) All firearms must be secured by a hardened steel rod or cable of at least one-fourth (1/4") inch in diameter and shall be secured with a hardened steel lock that has a shackle. The lock and shackle shall be protected or shielded from the use of a lock cutter and the rod or cable shall be anchored in a manner that prevents the ready removal of the firearm from the premises;

(c) Security

Security for the premises must include an alarm system and surveillance cameras that are operational when the premises is open and closed for business. Surveillance footage shall be retained for a minimum of 6 months.

- (12) Permit, in Business A, Business C, Village Center Retail (VCR)-2.0, VCR-1.0, VCR - 0.8, Village Center Office (VCO) - 2.0, VCO - 1.0, VCO - 0.8, Planned Unit Development (PUD) - 1.0, and PUD - 0.8-1.4 commercial sale, transfer and/or delivery of ENDS and/or ENDS components and parts, provided that such use meets the following requirements:

(a) Location

The commercial sale, transfer and/or delivery of ENDS and/or ENDS components and/or parts shall not be located within 1,000 feet of any public or private school, nursery school, day care center, house of worship, youth center, playground, park, library, arcade nor within 1,000 feet of any other establishment engaged in the commercial sale, delivery and/or transfer of ENDS and/or ENDS components and parts. Such distance shall be measured from the nearest point of the portion of the building or structure engaged in the commercial sale, delivery and/or transfer of ENDS and/or ENDS components and/or parts to the nearest point of the lot line of the property with a public or private school, nursery school, day care center, playground, or house of worship or building or structure engaged in the commercial sale, delivery and/or transfer of ENDS and/or ENDS components and/or parts.

(a) Storage when open for business.

(1) No ENDS or ENDS components or parts shall be stored, exhibited, or displayed in windows of the premises.

(2) All ENDS or ENDS components and parts shall not be accessible to the public without assistance of authorized personnel.

**EFFECTIVE DATE**

This Local Law shall take effect immediately upon filing with the Secretary of State.

Underline means addition.

~~Strikethrough means delete.~~