

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

July 24, 2018

Airmont Village Board
251 Cherry Lane
P.O. Box 578
Tallman, NY 10982

Tax Data:

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date:

Date Review Received: 6/22/2018

Item: VILLAGE OF AIRMONT - ZONING CODE AMENDMENTS (A-143C)

A Local Law amending the village zoning code as per the newly adopted 2018 Comprehensive Plan for the Village of Airmont.

Throughout the Village of Airmont

Reason for Referral:

State and County roads and facilities, county parks and streams, and adjacent municipalities.

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Recommend the following modifications***

As per the recommendations of the recently updated Comprehensive Plan for the Village of Airmont, the village has proposed multiple amendments to zoning regulations found in Chapter 210 of the Village Code. Some of the significant proposed changes are: The elimination of Conditional Uses and reclassifying such uses as Special Permit uses; giving approval authority of Special Permits to the Planning Board; establishing uses and criteria for Residential Places of Assembly, Neighborhood Places of Worship, and Freestanding Places of Worship; adding additional sections regulating temporary structures, beekeeping, existing undersized lots, exterior lighting, and the importation of fill materials; amending the schedule of fines for violations; and adjustments to bulk requirements for several uses. In addition to this non-exhaustive list, several amendments are proposed to clarify existing regulations.

The County welcomes the opportunity to review the proposed amendments and offers the following comments.

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- 1 Section 210-12.1A establishes residential places of assembly as "accessory uses permitted by right to a one-family detached residence..." Section 210-12.1B states a residential place of assembly "is a special permit use subject to site plan review..." The description of a use permitted by right is inconsistent with the description of a use allowed by special permit. The village must clarify if a residential place of assembly is permitted by right or is a special permit use.
- 2 Section 210-12.1B(5) states "Accessory facilities such as public baths, schools, and classrooms shall not be permitted in residential places of assembly except for the exclusive use of residents." This language could be interpreted to allow these uses within the residential portion of the structure, as long as they were used by the residents only. These examples are not traditionally considered to be appropriate accessory uses for a residence and must not be permitted. If the goal of the village is to place limitations on accessory uses traditionally associated with a house of worship, but not on accessory uses traditionally associated with a residence, then the village should consider alternative language.
- 3 Section 210-12.1B(9) establishes a buffer requirements for residential places of assembly. This section must be amended to specify minimum standards for a buffer.
- 4 Bulk tables 1, 2, 3, 4, 5, 7, 9, 10, and 11 include notes that refer to conditional use permits. These notes must be changed to refer to special permits.
- 5 Section 210-7D refers to both the Planning Board and Village Board as able to issue special permit. This section must be amended to refer solely to the Planning Board.
- 6 Section 210-87C(5) must be amended to require that illumination not exceed .01 footcandles at the property boundary. In addition, additional regulations must be incorporated to require landscaping that will shield headlights from parked vehicles from shining into roadways.
- 7 The definition of a flag lot must be amended so that the flagpole section of the lot not be counted towards lot area.
- 8 Neighborhood places of worship have a minimum lot area of 40,000 square feet. However, this standard is less restrictive than the required lot area for a one-family detached residence in the RR-50 zoning district. A neighborhood place of worship is a more intensive use than a one-family residence, and must not have less restrictive bulk requirements. The minimum lot area for a neighborhood place of worship in the RR-50 zoning district must be increased to at least the same requirement as a one-family dwelling.
- 9 Bulk table 8 indicates a freestanding fast-food restaurant requires a minimum lot area of two acres. The village must clarify the meaning of "freestanding fast-food restaurant," as there is no specific definition of this term. In addition, the minimum lot area requirement of two acres appears to be excessive. The village must evaluate whether such a large minimum lot size is appropriate for this use.



for Douglas J. Schuetz
Deputy Acting Commissioner of Planning

- cc: Mayor Philip Gigante, Airmont
Rockland County Department of Highways
Rockland County Division of Environmental Resources
Rockland County Drainage Agency
Rockland County Sewer District #1
New York State Thruway Authority
New York State Department of Transportation
New York State Department of Environmental Conservation

VILLAGE OF AIRMONT - ZONING CODE AMENDMENTS (A-143C)

Town of Ramapo

Villages of Chestnut Ridge, Suffern & Montebello

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.

Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

