



**COUNTY OF ROCKLAND**  
DEPARTMENT OF PLANNING

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County Executive

THOMAS B. VANDERBEEK, P.E.  
Commissioner

June 5, 2012

ARLENE R. MILLER  
Deputy Commissioner

Clarkstown Town Board  
10 Maple Avenue  
New City, NY 10956

**Tax Data:**

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

**Map Date**

**Date Review Received:** 5/1/2012

**Item:** *TOWN OF CLARKSTOWN - NEW CITY HAMLET ZONING (C-3413C)*

Local law to amend Chapter 290 to create a new section within the Town of Clarkstown Zoning Code, Section 290-7.4, New City Hamlet Zoning of the Town of Clarkstown and creation of four zoning districts and a floating zone which will replace the existing CS and PO commercial zones within the hamlet of New City.

East side of Main Street and west side of NYS Route 304 from the northern property boundary of the new Stop N Shop, south to the intersection of Main Street and NYS Route 304; west side of Main Street, and generally one parcel deep, from the southern boundary of the Omni Court condominiums to NYS Route 304

**Reason for Referral:**

N. Main Street (CR 29), New Hempstead Road/Congers Lake Road (CR 80), Little Tor Road (CR 33), Collyer Avenue (CR 76), NYS Route 304, Demarest Kill, Rockland County Government Center (Rockland County Courthouse, Sain Building, Allison-Parris Building, Bank of New York Building, Sheriff's Building and Jail), Dutch Garden, Demarest Kill County Park

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***

- 1 Page 2 of the Executive Summary, bullet #3, indicates that mixed-use residential/commercial development would be allowed in the H2 and H3 zoning districts. However, page 3 of Article II, Section 290-7.4C.(b) & (d) and Table F-1 lists that mixed use residence will be permitted in the H2 and H4 zoning districts. This discrepancy must be corrected.
- 2 Page 10, Section 290-7.4 E. (5) provides the frontage build-out percentage requirements. It should be indicated within the heading that this refers to the H3 and H4 zoning districts, as has been done in Sections 290-7.4 E. (3) and (4) in the title heading.

## **TOWN OF CLARKSTOWN - NEW CITY HAMLET ZONING (C-3413C)**

3 Table F-1 on page 13 lists senior citizen housing as a special permit use by the Town Board for the H1 and H3 zoning districts. Does the reference to senior citizen housing refer to the Active Adult Residence (AAR) Zone? It is not clear as to what is meant by senior citizen housing. If it is to allow the AAR floating zone designation in these two New City Hamlet districts, then this is conflictive with Section 7 of the proposed local law, page 4 of 5, which is proposing to amend Chapter 290-7.1 A, by adding the four hamlet districts to the list of ineligible hosts for this floating zone. This must be clarified.

4 Clubs are listed as a permitted use in the Hamlet Transition (H3) zoning district. Clubs, depending on their type, could be open late at night, and be noisy. As this is a transitional zone to act as a buffer between the commercial activity and the adjacent residential neighborhood, the town should evaluate whether clubs are an appropriate use located within this zoning district. Performance standards should be provided for clubs, similar to the requirements of restaurants, bars, or taverns with outdoor seating if it remains in the H3 zoning district.

5 Loading docks are listed as a permitted use in Table F-1 in the Hamlet Transition zoning district. This accessory use is usually associated with more industrial or large commercial establishments, can generate noise, and would be incompatible adjacent to a residential use. We recommend that the Town Board allow this accessory use only in the H1 and H4 zoning districts, or at a minimum, as a special permit use so that the location of the loading docks can be evaluated. If loading docks are retained in the H3 zoning district, then more stringent parameters should be incorporated into the zoning requirements, under the "Requirements for Specific Uses," Section 290-7.4G, so as to limit the number of loading dock bays or hours of operation, and to provide specific requirements for lighting, landscaping, fencing, etc.

6 Family day care is a permitted accessory use in the H2 and H4 zoning districts. However, on page 16, Section 290-7.4G.(4) (f) states "family day care shall be allowed only as an accessory to a single-family detached residence." Table F-1 does not list single-family detached residences as a permitted use in any of the zoning districts. In addition, only the H2 zoning district lists single-family semi-attached residences as a permitted use. In no case is a single-family residence permitted in the H4 zoning district. Either the H4 zoning district should be amended to allow single-family residences (which does not appear to be the intent of this district), or the family day care should be deleted as a permitted accessory use in the H4 zoning district.

7 Section 290-7.4 G.(4) (h) [5] Parking, structured above grade, provides criteria for garages located within the H3 zoning district. However, Table F-1 only lists the H1 and H4 zoning districts as allowing above grade parking structures. This discrepancy must be corrected. As indicated in a previous review, above grade parking structures may not be the most ideal transitional use adjacent to a residence, due to lighting, noise, air emissions, and visual impacts, so it may be best to amend the text on page 17 and leave Table F-1 as is.

8 The Use Table F-1 only lists pet grooming as a permitted use in the H2 and H4 zoning districts. However, the text in Section 290-7.4 G. (4) (i) lists all four zoning districts as allowing pet grooming. This discrepancy must be corrected.

9 Section 290-7.4 G. (4) (j) on page 18 seems to be duplicative with Section 290-7.4 G. (4) (c) on page 15.

## **TOWN OF CLARKSTOWN - NEW CITY HAMLET ZONING (C-3413C)**

10 Sections 290-7.4 H. (1) (c) and K. (1) (b) state "...all signs existing prior to the date of adoption of this code shall be brought into conformity by September 1, 2012." How will property owners know that this will be required, and is this sufficient time for owners to replace their non-conforming signs with these new signs? Will there be any grants or monetary incentives for the owners to replace the signs? An explanation of how this is to be accomplished should be provided in the text.

11 Section 290-7.4 H. (1) (f) discusses criteria for electric utilities for new or relocated poles. New electric service for new businesses should be required to be installed underground, and should be so stated.

12 Section 290-7.4 I. (4) (c) states that a use that has over 200% in excess parking spaces should be configured as public parking, designated as such with signage, and made accessible with sidewalks or other pedestrian access. Since the property owner would be required to provide sidewalks to adjacent properties, will they also be required to provide all of the maintenance for the use of their lot to others? Will any of the in lieu parking fees be used to offset any of their expenses? This should be clarified.

13 No specific parking standards for mixed use residence are listed in Table I-1 or in Section 290-7.4 G. (e). Would parking be based on bedrooms, square footage, or dwelling unit? Footnote #3 refers to the fact that properties converted to mixed use residences must "provide the additional parking needed for the new residential dwelling units" but no specifics are provided for this use. Parking standards for this use must be provided.

14 Table I-1 lists parking requirements for gasoline stations though they are no longer a permitted use in the new zoning districts. As with the drive thru uses, a footnote should be added to the parking table indicating that this parking requirement is for existing uses only.

15 Sections 290-7.4 I. (8) and 290-7.4 M. (4) (b) [6] describe requirements for access to lots and curb cuts. Limiting curb cuts is a beneficial access management tool and we support the implementation of this concept. Furthermore, it is stated that curb cuts should only be as wide as necessary and curb radiuses should be kept to a minimum. It should however, also be noted in this section, that curb cuts on State or County highways must also comply with width requirements of those agencies and the New York State Fire Prevention Code.

16 Section 290-7.4 I. (11) (b) describes how staggered hours parking will be implemented. Is there anything in place if, in the future, the uses that have been deemed to have staggered demand schedules change so that their schedule demand is now the same? This should be addressed.

17 Section 290-7.4 I. (12) (a) describes the requirements for landscaping that should be provided for parking areas abutting a public street or right-of-way. In instances where the parking spaces face the roadway, this landscaped buffer should be required instead of just recommended. This landscaping will help to shield the headlights from glaring into the vehicular travel lanes, creating safer conditions, especially onto the State or County roadways.

18 The following additional comments are offered strictly as observations and are not part of our General Municipal Law (GML) review. The board may have already addressed these points or may disregard them without any formal vote under the GML process.

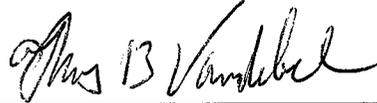
18.1 There is a typographical error on page 3 of 5 of the Local Law under the definition for pet grooming. The second line should read "...feeding and day care, and accessory retail sales."

**TOWN OF CLARKSTOWN - NEW CITY HAMLET ZONING (C-3413C)**

18.2 There is a typographical error on page 11. Section 290-7.4 E.(12)(c) should be re-lettered to (a).

18.3 The reference to the Design Requirements on page 19 in Section 290-7.4 H. (1) indicate that the standards are included in "Section 290-7.4 (I) thru Section 290-7.4 (M)." This reference should be changed to "Section 290-7.4 I. Thru Section 290-7.4 M." In addition, the subsections under Section 290-7.4 H. (1) also refer to the section letters in parenthesis, and these should also be changed for (a), (b), (c), (d), and (e) so as to avoid any confusion with the references.

18.4 There are typographical errors in Section 290-7.4 I. (1) (d) and (3) (c). Section 290-7.4 I. (1) (d) should read "...the creation of shared parking..." and Section 290-7.4 I. (3) (c) should read "...is authorized to require that additional parking..."



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Thomas B. Vanderbeek, P.E.  
Commissioner of Planning

cc: Supervisor Alex Gromack, Clarkstown  
New York State Department of Transportation  
Rockland County Department of Highways  
Rockland County Division of Environmental Resources  
Rockland County Drainage Agency  
Rockland County Department of General Services  
Rockland County Planning Board  
Behan Planning and Design

Attention Pat McDonald, Town Attorney's Office  
Justin Sweet, Town Clerk  
Clarkstown Planning Board, Attention Joe Simoes

*\*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.*