

## **UPDATED EDITS TO ZONING CODE**

### **§ 310-2.1. Word usage.**

1. Change: Density definition, removed “zoning” before lot.
  - a. Reason: zoning lot is not a defined or used term in the code.
2. Change: Development Yield, definition added
  - a. Reason: this is a term used specifically in updated code sections and required a clear definition.
3. Change: House of Worship, removed “See also Religious Use”
  - a. Reason: Each of these uses was added or retained in the bulk table and this change was made for clarity of which use may be used in specific Zones based on public comment.
4. Change: Religious Use, definition was updated to remove internal reference and definition inclusive of house of worship.
  - a. Reason: Based on public comment regarding use of house of worship in this definition and confusion caused, similar definitions from other municipal codes was conducted and resulted in a clearer definition that stands separate from house of worship.
5. Change: Religious Retreat, removed “See also Religious Use.”
  - a. Reason: Each of these uses was added or retained in the bulk table and this change was made for clarity of which use may be used in specific Zones based on public comment.
6. Change: School, religious, removed “See also Religious Use.”
  - a. Reason: Each of these uses was added or retained in the bulk table and this change was made for clarity of which use may be used in specific Zones based on public comment.

### **§ 310-5.4 Environmental constraints affecting permitted development yield/density.**

1. Change: Added development yield to title.
  - a. Reason: To mirror the internal changes to this section that updated yield to development yield.
2. Change: Deleted minimum before development yield/density and added maximum.

- a. Reason: Based on change from lot area to development yield/density, minimum needed to be changed to maximum development yield/density, which was carried throughout this section.
3. Change: In section C(1) (a) and (b), removed prior changes and kept the original language for allowed slopes in residential and nonresidential zones.
  - a. Reason: Public comment voiced concerns about increase in slope allowance and potential conflicting percentages with SEQR review and it was determined to keep the status quo.

#### **§ 310-6.1. General provisions. (Special Permit Uses)**

1. Change: Added further definition language in the preamble of what a special permit use is.
  - a. Reason: In the County GML § 239 review, the County requested this addition to clarify and provide further definition for the difference between a special permit use and site plan review.
2. Change: In Paragraph (C)(1), added language “When reviewing any special permit application, including...” and cleaned up a typo in “the” before Planning Board.
  - a. Reason: Based on the County GML § 239 review and public comment, it was requested that the reasonability/mitigation test apply to all special permit uses and be applied uniformly.

#### **§ 310-7.1. Authority and purpose. (Site Plan Review)**

1. Change: Added further definition to preamble for what a site plan is.
  - a. Reason: Based on County GML § 239 review to add additional clarity on the site plan review process.
2. Change: Section 310-7.11(A) and (A)(3) removed “...and/or special use permit” language.
  - a. Reason: Based on public comment and clarity, the special use permit language for the expiration section was removed to be clear that this specific language only applies to site plan vesting and to clarify there is no technical vesting for special permit uses based on this test.

#### **§ 310-9.1. Policy. (Nonconformities)**

1. Change: added additional language to preamble, including “...but it is not the policy nor the intent to allow for additional non-conforming buildings or units to be built on a specific property.”

- a. Reason: Based on public comment there is concern about nonconforming uses being extended by allowing additional buildings or units. This language was added to be clear that there is no intent and it is not the policy of the Town to allow additional buildings or units for any specific nonconforming use.
2. Change: In section (D)(5), added language "...except as allowed under Section 310-9.3(E)".
  - a. Reason: Based on public comment, this language was added to ensure that the rules and strictures applied in Section (E) "Nonconforming commercial and multi-family/residential use with more than one unit" are applied to this section if there is damage to the nonconforming building.
3. Change: Section (E) was amended to add "...of the square footage that existed as of December 31, 2007."
  - a. Reason: This language is included in the current Zoning Code and was added back in after hearing public comment of concerns that the prior added language would allow 50% increases to be done repeatedly, resulting in massive increases in non-conforming uses. This acts to cap the extent that nonconforming uses may be increased under the Zoning Code in the same way that the code has operated since 2007 and based on the 2007 footprint of each building, rather than the footprint at the time of the current revision. This, therefore, accounts for the situation where a nonconforming use that has used the 50% increase of its 2007 footprint not being able to come back to the table for an additional 50% increase. The 50% increase is not intended to be cumulative and does not permit successive increases beyond 50% of the 2007 footprint.
4. Change: Section (E) was amended to add, "...which shall be conditioned on the owner of the nonconforming commercial or multi-family/residential use demonstrating that the structure meets, or will meet in the permitted construction process, all New York State Building and Fire Code provisions and bringing the entire building to modern construction standards."
  - i. Reason: This change was added to clarify and codify that any increase to footprint under this section may only occur where the nonconforming structure is updated to meet all New York State Building and Fire Code provisions and modern construction materials. The intent of this section is to encourage compliance and add safety and Building and Energy Code compliance at nonconforming properties, by requiring compliance to increase the footprint. Increasing compliance and safety is a mandatory condition of the increase in footprint, intended to enhance health, safety and welfare.

5. Change: Section (E), deleted “...addition shall apply to the floor area occupancy at the time this chapter is adopted.”
  - a. Reason: To ensure that change #3 above, this language was removed, which could have been used to increase a nonconforming use by 50% based on the current footprint at the time the Zoning Amendment is adopted, which could have led to a situation where nonconforming uses already increased by 50% since 2007 the change avoids getting a second bite at the apple to increase another 50%.
6. Change: Section 310-9.3(E)(b), added “conforming” before both residential use and commercial use in terms of setbacks that are applied, where the nonconforming use does not appear in the bulk table and also added “building” before “requirements” in the last section.
  - a. Reason: These changes were requested in public comment and ensure that the setbacks being applied to the nonconforming replacements meet conforming uses that are similar to the nonconforming use to ensure that further compliance with the code and safety are met with any changes under this section.
7. Change: Section 310-9.3(E)(c) deleted “commercial” after nonconforming and “...as otherwise allowed” in the last sentence.
  - a. Reason: To clarify that this section applies to all nonconforming uses and not just commercial. The second change was requested in public comment as there is no provision that additional units may be included and this confirms and clarifies that the changes do not allow additional units.
8. Change: Section 310-9.3(d) was added to provide that the provisions of 310-9.3(E) and increase in footprints does not apply to nonconforming junkyards, garbage dumps, open storage yards, mobile homes and unimproved parking areas.
  - a. Reason: This request was made in the County GML § 239 review and was deemed advisable as an inclusion where the increase in footprints of these uses likely would have a medium to large environmental impact that would require additional SEQR and environmental review that is outside the scope of this zoning amendment.

### **§310 Attachment 2 (Bulk Tables)**

1. Change: 310 Attachment 2:1 (Agricultural District), added Religious Use as a new use to the table subject to special permit and site plan review.
  - a. Reasoning: Requested by the County of Sullivan GML § 239 and included to add clarity on setbacks and density for such developments in an agricultural district. Further done to clarify that dense housing will not be allowed in the agricultural

district, as was questioned during public comment. By including religious use, the least restrictive setbacks were applied but by making a special permit use, the planning board will be able to use the discretionary standard provided in the special use permit section of the Zoning Code to ensure safety in the district and compliance with neighborhood standards.

2. Change: 310 Attachment 2:3 (REC), added Religious Use, Retreat Religious, and School Religious to special permit uses subject to site plan review.
  - a. Reasoning: This change was part of the Request by the County of Sullivan GML § 239 and these specific uses were added where schools and retreats are allowed in this Zone subject to special use permit, which provides equal treatment to each of these uses.
3. Change: 310 Attachment 2:7 (HR) added School Religious and Religious Use to special permit uses subject to site plan review.
  - a. Reasoning: This change was part of the Request by the County of Sullivan GML § 239 and to ensure equal treatment, where school uses are allowed by special permit use in this zone and provides for the least restrictive setbacks of a similar use for this zone. Religious Use was also included and provided the least restrictive setbacks for the most similar multi-structure use in the district.
4. Change: 310 Attachment 2:9 (B), added Religious Use and School Religious, subject to special permit and site plan review.
  - a. Reason: Specified the uses allowed, per County of Sullivan GML § 239 request, which includes Religious School, where schools are an allowed special permit use in this district and added Religious Use with the least restrictive setbacks, as mirrored from House of Worship setbacks.
5. Change: 310 Attachment 2:11 (Mx), added uses for Religious Use and School Religious, subject to special permit and site plan review.
  - a. Reason: Again, to comply with the County GML § 239 recommendation to update the bulk table to include newly defined uses. School Religious was added where schools are a special permit use in this district already and to conform religious use with the setbacks already provided for a House of Worship in this district.
6. Change: 310 Attachment 2:13 (NB), added Religious Use and School Religious to table as special permit uses subject to site plan review.
  - a. Reason: Again, to comply with the County GML § 239 recommendation to update the bulk table to include newly defined uses. School Religious was added where

schools are a special permit use in this district already and to conform religious use with the setbacks already provided for a House of Worship in this district.

7. Change: 310 Attachment 2:17 (PRD), added Retreat Religious and Religious Use with retreat Religious being subject to site plan and Religious Use as a nonresidential special permit use.
  - a. Reason: Again, to comply with the County GML § 239 recommendation to update the bulk table to include newly defined uses. Here, Retreats are allowed subject to site plan review, therefore, Retreat Religious were also included with the least restrictive setbacks. Religious Use was also added, subject to special use permit and provided the least restrictive setbacks from House of Worship.