

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City
Town of
Village

CLARKSTOWN

FILED
STATE RECORDS

MAR 28 2016

Local Law No. 5 of the year 2016

DEPARTMENT OF STATE

"A LOCAL LAW AMENDING THE ZONING MAP AND CHAPTER 290 (ZONING) OF THE LOCAL LAWS OF THE TOWN OF CLARKSTOWN WITH RESPECT TO REGULATING NON-RESIDENTIAL USES IN RESIDENTIAL ZONING DISTRICTS"

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County
City
Town of
Village

CLARKSTOWN

as follows:

See attached Local Law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(1)

TOWN OF CLARKSTOWN

LOCAL LAW NO. 5 - 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 |
|--------------------------------------|----------------|------------------|
| 3,800 | 11.5 | 1 |

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 §290-20I.

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 §290-17O(A)(8)(b), to read as follows:

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

Modify §290-17O(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, §290-17O(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, §290-17O(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 §290-17O(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 §290-17O(A)(11)(m), to read as follows:

Reserved

Modify §290-17O(A)(11)(n), to read as follows:

Reserved

Modify §290-17O(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 §290-17O(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.

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

| | | | | | | | | MF-1 |
|--|-------|------|------|------|------|------|----|------|
| | | | | | | | | MF-2 |
| | | | | | | | | MF-3 |
| ALL USES | R-160 | R-80 | R-40 | R-22 | R-15 | R-10 | | |
| RESIDENTIAL | | | | | | | | |
| Single-family detached residences | P | 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 | 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 | 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 |

| | | | | | | | | |
|---|--------------|-------------|-------------|-------------|-------------|-------------|----|-------------|
| | | | | | | | | MF-1 |
| | | | | | | | | MF-2 |
| ALL USES | R-160 | R-80 | R-40 | R-22 | R-15 | R-10 | | MF-3 |
| 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 | | |
| 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 |
| CIVIC/RECREATION | | | | | | | | |
| 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 | | | |
| Camps, on lots not less than 10 acres, with dormitories, subject to §290-17D and §290-17AB. | PB | PB | PB | PB | PB | | | |

| | | | | | | | | |
|---|--------------|-------------|-------------|-------------|-------------|-------------|--|-------------|
| | | | | | | | | MF-1 |
| | | | | | | | | MF-2 |
| ALL USES | R-160 | R-80 | R-40 | R-22 | R-15 | R-10 | | MF-3 |
| Community Centers, libraries, museums, art galleries and similar facilities. | PB | PB | PB | PB | PB | PB | | |
| SCHOOLS | | | | | | | | |
| Schools of general instruction. | | P | P | P | P | P | | P |
| Schools of general instruction with dormitories subject to §290-17AB. | | PB | PB | PB | PB | PB | | PB |
| MEDICAL | | | | | | | | |
| 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 | | | | | | |
| RETAIL/COMMERCIAL | | | | | | | | |
| 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 | | |

| | | | | | | | | |
|--|--------------|-------------|-------------|-------------|-------------|-------------|-----|-------------|
| | | | | | | | | MF-1 |
| | | | | | | | | MF-2 |
| ALL USES | R-160 | R-80 | R-40 | R-22 | R-15 | R-10 | | MF-3 |
| 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 |
| 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 | A |
| MISCELLANEOUS | | | | | | | | |
| Cemeteries on plots of at least 5 acres subject to approval of the County Legislature. | P | 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 | ZBA |

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

Attachment #2

Table #2

Residential Zoning Districts Parking and Loading Requirements

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. | - |

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.

1. (Final adopted by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 5 of 2016 of the (County) (City) (Town) (Village) of CLARKSTOWN was duly passed by the TOWN BOARD on March 22, 2016, in accordance with applicable provisions of law.
(Name of legislative body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved) (not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved) (not approved) (repassed after disapproval) by the _____ Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County) (City) (Town) (Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved) (not approved) repassed after disapproval) by the _____ on _____, 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* Elective Chief Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____, 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further hereby certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Joanne Castaldo
Deputy Town Clerk
Joanne Castaldo

(Seal)

Date: 3/23/16

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ROCKLAND

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

[Signature]
Signature

Lino J. Sciarretta, Town Attorney
Title

County _____
City _____
Town of CLARKSTOWN
Village _____

Date: 3/23/16