

Memo

To: Mayor Hochvert and Village Board of Trustees

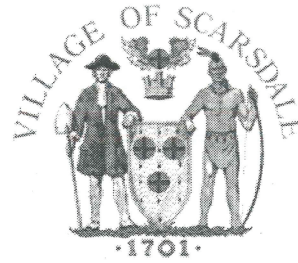
From: Attorney's Office



Cc: Stephen M. Pappalardo, Village Manager
Robert Cole, Deputy Village Manager
Elizabeth Marrinan, Village Planner

Date: July 24, 2017

Re: Draft Legislation Amending Chapter 310 – Zoning of the Scarsdale Village Code



Attached please find a draft of the local law amending Chapter 310 of the Scarsdale Village Code entitled Zoning to include limitation on the commercial sale of firearms. A draft of the law will be included as a Written Communication on the Village Board's August 8, 2017 agenda to be referred to the Law Committee for discussion.

INTRODUCTORY LOCAL LAW # ____ OF 2017
A LOCAL LAW AMENDING SECTIONS 310-2, 310-12, 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:

§ 310-2. Definitions.

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

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 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.

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.

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 of firearms.

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) Village Center Retail - 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, 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 of firearms 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.

§ 310-70. 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 of firearms, 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:

(11) Permit, in the VCO -1.0, commercial sale of firearms, provided that such use meets the following requirements:

(a) Location.

The commercial storage, possession, display, and sale of firearms and ammunitions shall not be located within 500 feet of any public or private school, nursery school, day care center, playground, church, synagogue or other house of worship. Such distance shall be measured from the nearest point of the portion of the building or structure used for commercial storage, possession, sale, and display of firearms and ammunition to the nearest point of the lot line of the property with a public or private school, nursery school, day care center, playground, church, synagogue or other house of worship.

(b) Storage when open for business.

- (1)** All ammunition shall be stored in compliance with 12 NYCRR 39 et seq. All ammunition when being displayed shall be kept in a locked case or behind the counter on an area not accessible to the public.
- (2)** No firearm shall be stored, exhibited, or displayed in windows of the premises.
- (3)** Firearm storage or inventory areas shall be physically separated from counter and display areas. Public access to these areas shall be limited.
- (4)** All firearms display cases shall be kept locked and secured at all times and not readily accessible to the public. The keys to such display case shall be secured and controlled by authorized personnel.
- (5)** Trigger locks which disable firearms and prevent them from functioning must be attached and locked to each firearm at all times, or the firearm must be secured in a locked case or be otherwise locked, or the firearms must be dispensed in an area behind the counter that is not accessible to the public. These requirements shall not apply to a firearm being shown to a customer, or being repaired.

(c) Storage when not open for business

- (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;

(3) All firearms shall be secured in a manner that prevents the ready removal of the firearm from the premises.

(4) The regulations provided for herein shall not apply to the personal possession, use or ownership of firearms or ammunition.

(d) Commercial sale of firearms and ammunition.

Every person engaged in the retail business of selling firearms shall post a notice in the place where such firearms are displayed or delivered to the purchaser conspicuously stating, in no smaller than 24 point type and on no smaller than 8 ½ x 11 paper, stating in bold print the following warning:

WARNING: RESPONSIBLE FIREARM STORAGE IS THE LAW IN NEW YORK STATE, AS DEFINED BY THE NY SAFE ACT. FIREARMS MUST BE STORED IN A SAFE OR OTHER SECURE CONTAINER WHICH, WHEN LOCKED, IS INCAPABLE OF BEING OPENED WITHOUT THE KEY, COMBINATION OR OTHER UNLOCKING MECHANISM AND IS CAPABLE OF PREVENTING AN UNAUTHROIZED PERSON FROM OBTAINING ACCESS TO AN POSSESSION OF THE DEVICE APPROPRIATE TO THAT FIREARM. LEAVING FIREARMS ACCESSIBLE TO A CHILD OR UNAUTHORIZED PERSON MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH. YOU MAY ALSO FACE ADDITIONAL CRIMINAL PENALTIES IF THE FIREARM IS USED BY ANOTHER NEGLIGENTLY AND CIVIL LIABILITY.

(e) 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.

EFFECTIVE DATE

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

Underline means addition.

~~Strikethrough means delete.~~