

LOCAL LAW NO. 7 OF 2024

**VILLAGE OF SCARSDALE
BOARD OF TRUSTEES**

**A LOCAL LAW TO AMEND THE SCARSDALE VILLAGE CODE
CONCERNING LAND USE REGULATIONS**

A LOCAL LAW to amend Scarsdale Village Code Chapters 132, 251, 310, and A319 concerning Building Construction and Fire Prevention, Site Plan Review and Zoning, respectively.

BE IT ENACTED by the Board of Trustees of the Village of Scarsdale as follows:

Section 1. Legislative Intent.

On January 9, 2024, the Scarsdale Board of Trustees enacted a six-month moratorium on the acceptance, consideration, and approval of certain land use applications, such as applications for subdivisions, demolitions, building permits, site plan approval, and special permits. The moratorium was enacted due to the pervasive adverse impacts caused by new single-family developments, including but not limited to the loss of the architectural and historic qualities and scale that helps define the fabric of the Village's residential neighborhoods as well as concerns about negative environmental impacts such as increased flooding and the destruction of mature trees and natural habitat.

This local law is the result of months of the Village identifying and studying possible ways to mitigate or avoid the deleterious impacts of the aforementioned development activities.

Section 2. Authority.

The Scarsdale Board of Trustees is authorized and empowered to adopt this local law pursuant to Article IX of the New York State Constitution, New York State Municipal Home Rule Law, and the authority conferred upon the Board of Trustees under Article 7 of the New York State Village Law to regulate land use and zoning within its jurisdiction.

Section 3. Chapter 132 of the Code of the Village of Scarsdale, Articles III – Building Permits and VI – Certificate of Use and Occupancy, are hereby amended as follows:

Article III **Building Permits**

§ 132-22 **Application.**

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C. Construction Management Plan Required. Any work meeting the thresholds set forth below shall be required to prepare a construction management plan. The construction management plan shall be submitted as part of the building permit application and shall be subject to review and approval by the Building Inspector prior to the issuance of any building permit or commencement of work.

- (1) For any work requiring a building permit, which costs more than \$25,000 or in the Building Inspector’s opinion will take more than five (5) calendar days to complete, a construction management plan shall be submitted on a short-form provided by the Building Inspector.
- (2) For any work requiring a building permit, which costs more than \$100,000 or in the Building Inspector’s opinion will take more than fourteen (14) calendar days to complete, a construction management plan shall be submitted to the building department in accordance with the requirements of § 251-6 subject to any provisions that the Building Inspector may waive or modify.
- (3) For work requiring a building permit in which there will be stone cutting, regardless of cost or time to complete, a construction management plan shall be submitted which designates the area where stone is to be cut, the approximate number of days of stone cutting, and mitigation measures, including but not limited to noise and dust.
- (4) For good cause shown and in its sole discretion, the Building Inspector may waive the construction management plan or any part or provision thereof.

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Article VI **Certificate of Use and Occupancy**

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§ 132-60.1 **Required for residential site plan approval.**

No certificate of occupancy shall be issued for any residential construction which received site plan approval from the Planning Board unless a final survey including topography, prepared by a New York State licensed surveyor, has been provided, along with a certification signed

by the licensed architect or engineer and property owner, that all construction was performed in accordance with the approved site plan. To the extent there are any modifications from the approved site plan, justification must be provided along with written verification from the Village staff that the modification did not require site plan amendment and was approved by the Village Engineer or Building Inspector. The Final Certificate of Occupancy shall not be issued until the Village Engineer and Building Inspector have reviewed and approved the final survey.

Section 4. Chapter 251 entitled “Site Plan Review” of the Code of the Village of Scarsdale, is hereby amended as follows:

§ 251-1 **Site plan required.**

- A.** Whenever any nonresidential building or any multifamily dwelling is proposed to be erected or enlarged or altered or whenever any dwelling or other structure is proposed to be erected, enlarged or altered on a lot at a distance from the street or on a lot approved by the Planning Board under the provisions of § 7-738 of the Village Law, a site plan for such building shall be submitted to the Planning Board for review and approval, approval with modifications, or disapproval. No building permit shall be issued except in conformity with a site plan approved by the Planning Board.
- B.** Whenever any land-disturbing activity within the adjoining property buffer area, as defined in § 254-4, is proposed, a site plan shall be submitted to the Planning Board pursuant to § 254-10.1 for review and approval, approval with modifications, or disapproval. No building permit shall be issued except in conformity with a site plan approved by the Planning Board.
- C.** Whenever any site disturbance, as defined in § 310-2 of this Code, exceeds the thresholds set forth in § 251-1C(1) below, a site plan shall be submitted to the Planning Board for review and approval, approval with modifications, or disapproval. No building permit shall be issued except in conformity with a site plan approved by the Planning Board.

(1) Site disturbance thresholds for site plan review in the following zoning districts shall be as follows:

Zoning District	Thresholds for Site Plan Review
A-5: 5,000 sf min.	50% of lot area
A-4: 7,500 sf min.	45% of lot area
A-3: 10,000 sf min.	40% of lot area
A-2a: 15,000 sf min.	40% of lot area

A-2: 20,000 sf min.	35% of lot area
A-1: 1 acre	30% of lot area
AA-1: 2 acres	30% of lot area

(2) The following activities are exempt from the site disturbance thresholds set forth in § 251-1C(1) above.

- (a) Repairs to any stormwater management practice or facility deemed necessary by the Village Engineer;
- (b) Routine landscaping maintenance activity in areas that have already been cultivated, including, but not necessarily limited to, the stripping of existing lawn areas followed by the immediate replacement in kind where there are no proposed changes in grade;
- (c) Repair in kind or repaving of existing walls, driveways, patios, walkways, tennis courts, and swimming pools, provided the parcel is not regraded in the process; and
- (d) Emergency activity necessary to protect life, property, or natural resources.

D. For all construction and other development (“development” as defined in § 167-4 of this Code) to be undertaken within a Special Flood Hazard Area (SFHA), as identified in Flood Insurance Rate Maps (FIRMs) and/or Flood Hazard Boundary Maps (FHBM) published by the Federal Emergency Management Agency (FEMA), a site plan shall be submitted to the Planning Board for review and approval, approval with modifications or disapproval. No building permit shall be issued except in conformity with a site plan approved by the Planning Board.

(1) The Village Engineer, in its sole discretion, may grant a waiver from receiving site plan approval under this Subsection **D**, as follows:

- (a) When site plan approval is not required under any other Subsection of § 251-1; and
- (b) The proposed construction or development would not result in an increase in stormwater surface runoff within a SFHA or FHBM; or
- (c) The proposed construction or development would not result in an increase in impervious surface coverage within a SFHA or FHBM; or

- (d) The proposed construction or development would not result in an adverse impact on a wetland, watercourse, water body, or environmentally critical area; or
 - (e) Otherwise impair the objectives of this Section or Chapters 167, 171 or 254.
- (2) The waiver standards set forth under § **251-1D(1)** above, shall not impair or interfere with the requirements or approvals set forth under Chapters 167, 171 or 254 of this Code.
- E. For any corner lot within a residential zoning district, where a newly constructed home is proposed, a site plan shall be submitted to the Planning Board for review and approval, approval with modifications, or disapproval. No building permit shall be issued except in conformity with a site plan approved by the Planning Board.
- F. A demolition site plan, in accordance with § **251-5D**, shall be submitted to the Planning Board for review and approval, approval with modifications, or disapproval for (i) the demolition, removal, or structural alteration of more than 50% of a one-family dwelling's total exterior walls (measured in linear feet) or (ii) the demolition, removal, or structural alteration of more than 50% of a one-family dwelling's total front-yard-facing exterior walls (measured in linear feet). Exterior walls will be deemed to be the subject of "structural alteration" if, in the judgment of the Building Official, there is reasonable cause to believe that the walls will be, or will have to be, substantially replaced during the construction process, or the walls will not survive the construction process intact. Demolition site plan approval shall only be granted after the Committee for Historic Preservation, or the Board of Trustees on appeal, has issued a Certificate of Appropriateness and, if applicable, such demolition site plan shall be approved at the same time as any other site plan approval required under this Code. If a demolition site plan is required, no demolition permit shall be issued except in conformity with a demolition site plan approved by the Planning Board.
- G. The construction or enlargement of any residential property in a Residence A Zoning District with a proposed gross floor area of 15,000 square feet or more shall require site plan approval from the Planning Board. No building permit shall be issued except in conformity with a site plan approved by the Planning Board.
- H. Applications for a cluster site plan, pursuant to Village Law § 7-738, shall require site plan approval from the Planning Board. In addition to the requirements and standards set forth in this Chapter, such applications shall also comply with § **A319-45** of this Code. No building permit shall be issued except in conformity with a site plan approved by the Planning Board.
- I. In accordance with § **310-19** of this Code, site plan approval shall be required for any legal nonconforming interior lot, commonly referred to as a "flag lot." No building

permit shall be issued except in conformity with a site plan approved by the Planning Board.

- J.** Site Disturbances in the aggregate. For the purposes of Subsections **C** and **F** above, demolition, construction, alteration, or improvements proposed in all building permit applications within any thirty-six-month period shall be aggregated to determine if any of the thresholds for "site disturbance" or "structural alteration" have been met.

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§ 251-5 **Content of site plan.**

The site plan shall be accompanied by the following:

- A.** A narrative statement detailing the proposed project and site drawing showing the location and dimensions of principal and accessory structures, parking areas, signs (with descriptions), existing and proposed vegetation, and other planned features; anticipated changes in the existing topography and natural features; and, where applicable, measures and features to comply with flood hazard and flood insurance regulations and other environmental matters.
- B.** A sketch map of the area which clearly shows the location of the site with respect to nearby streets, rights-of-way, properties, easements, and other pertinent features.
- C.** Site plan checklist:
 - (1)** Legal data.
 - (a)** Section, block, and lot numbers of the property taken from the latest tax records along with a copy of the most recent property card on file with the Assessor's office.
 - (b)** Title of the drawing, including the name and address of the applicant and person responsible for preparation of such drawing and the date, and date of revision, if any.
 - (c)** North arrow, scale, and location map drawn to a scale of not less than one-inch equals 1,000 feet.
 - (d)** Survey map accurately reflecting existing conditions and defining precisely the boundaries of the property, setbacks of all structures, location of easements, and such other information as required by the Building Inspector or Village Engineer, including a topographical survey. Such survey shall be certified by a New York State licensed land surveyor no more than one year prior to the date of the application.

- (e) The locations, names, and existing widths of adjacent streets, including curblines.
 - (f) The location and owners of all adjoining lands as shown on the latest tax records.
 - (g) Copies of:
 - i. The deed to the property;
 - ii. All easements; and
 - iii. All existing and proposed deed restrictions or covenants applying to the property, including, but not limited to, covenants and agreements restricting the use and establishing future ownership and maintenance responsibilities for all private roads, recreation, and open space areas.
 - (h) Existing and proposed zoning compliance table. Calculations of lot coverage shall be performed pursuant to §§ **310-22** or **310-23** using the prescribed online forms.
 - (i) Any prior land use approvals with respect to the subject property.
 - (j) Any other legal agreements, documents, or information required by the Planning Board.
- (2) Natural features.
- (a) As defined in Chapter 171 of the Code, the location of all existing watercourses, intermittent streams, freshwater wetland/watercourse buffer areas, and springs.
 - (b) Topographic data at a minimum contour interval of two feet, showing existing and proposed contours on the property and a minimum of 25 feet into all adjacent properties.
 - (c) Approximate boundaries of any areas subject to flooding or stormwater overflows, including areas of special flood hazard and coastal high-hazard areas.
 - (d) Rock outcroppings and areas of steep slope.
 - (e) Pursuant to § **281-25** of this Code, a tree inventory plan, tree preservation plan, and, if required, a tree removal and replacement plan. In addition, such plans shall show the location and characteristics

of the different areas of vegetation and tree canopies, including the identification and species of all individual trees 6 or more inches in diameter at breast height (“DBH”) requiring a tree removal permit pursuant to § 281-4, protected and heritage trees of any size, as well as stands of trees and wooded areas, and tree canopies within areas of proposed disturbance.

- (3) Existing structures and utilities.
 - (a) Location of all buildings and structures on the premises and approximate location of all neighboring buildings or structures within 100 feet of the lot line.
 - (b) Location of all existing public and private roads, paved areas, and sidewalks.
 - (c) Locations, dimensions, grades, and flow direction of existing sewers, culverts, waterlines, as well as other underground utilities within and adjacent to the property.
 - (d) Other existing site improvements, including, but not limited to, fences, landscape walls, retaining walls, landscaping, and screening.
 - (e) Location of all existing drainage infrastructure, including but not limited to, swales, drainage easements, dry wells, and basins.

- (4) Proposed development.
 - (a) Grading and drainage plan, showing existing and proposed contours, new grades indicating clearly how such grades will meet existing grades of adjacent properties or the street, and calculations of expected storm drain loads to be accommodated by the proposed drainage system.
 - (b) Any stormwater management plan required by Chapter 254 of this Code, or that will be required.
 - (c) Location, design, type of construction, proposed use, and exterior dimensions of all buildings, including length, width, ground floor elevation, and height.
 - (d) Location, design, and type of construction of all parking and truck loading areas, showing access and egress.
 - (e) Provision for pedestrian access.
 - (f) Location, size and proposed screening of outdoor storage areas, if any.

- (g) Location, design, and construction material of all existing or proposed site improvements, including drains, culverts, retaining walls, landscape walls, and fences.
- (h) Description of the method of sewage disposal and storm drainage location, design, and construction material of such facilities.
- (i) Description of the method of securing public water and location, design, and construction material of such facilities.
- (j) All proposed above and underground utilities.
- (k) Location of fire and other emergency zones, including the location of fire hydrants.
- (l) Location, design, and construction materials of all energy distribution facilities, including electrical, gas, and solar energy.
- (m) Location, size, wording, design, color, illumination, and type of construction of all proposed signs.
- (n) Location and proposed development of all buffer areas, including existing vegetative cover.
- (o) Identification of the location and amount of building area proposed for retail sales or similar commercial activity.
- (p) Landscape plan with a plant schedule that includes the common name, scientific name, height and/or spread, nursery condition, and quantities of all plant material proposed and specifications and details for plant installation and post planting maintenance.
- (q) Landscape plan shall include all plantings within 5 feet of the subject property line and/or within the Adjoining Property Buffer, as defined in § 254-4 of this Code. The landscape plan shall also show all mature trees on neighboring properties that are within 10 feet of the subject property line and have a diameter at breast height (“DBH”) of 12 or more inches.
- (r) Estimate of earthwork showing the quantity of any material to be imported to and/or removed from the site.
- (s) Description of measures planned to assure proper erosion and sedimentation control.
- (t) An estimated project construction schedule.

- (u) Record of application for and approval status of all necessary permits from state and county officials and local utility companies.
 - (v) Identification of any federal, state, or county permits required for the project's execution, including project referrals, if any, and environmental review procedures mandated by Article 8, Environmental Quality Review, of the Environmental Conservation Law (SEQRA).
 - (w) The outlines of any proposed easements, deed restrictions, or covenants.
 - (x) Details outlining tree removal, protection, and replacement plan(s).
- (5) Other elements integral to the proposed development as deemed necessary by the Planning Board.

D. Demolition. When so required by § 251-1F, the following shall be required in connection with site plan approval for demolition:

- (1) The Planning Board shall not issue site plan approval for any applicable demolition until the Planning Board approves a demolition management plan and site restoration plan. The demolition plan and site restoration plan shall include, but not be limited to:
 - (a) The time frames during which demolition and site restoration may occur and must be completed;
 - (b) A requirement to fill all exposed below-grade areas with soil and to grade the lot to match adjacent grades, all in compliance with Chapter 254, Stormwater Management and Erosion and Sediment Control;
 - (c) A requirement that all aboveground and overhead utilities be removed;
 - (d) Where, upon satisfaction of the conditions provided below, the Planning Board permits foundation and/or other below-grade infrastructure or materials to remain on the lot, a requirement that a survey showing the locations and dimensions of such foundation and below-grade infrastructure and materials to remain after demolition will be filed with the Building Department;
 - (e) A plan to protect trees (including the root systems of trees located on adjacent properties) and other vegetation during demolition operations;

- (f) A plan showing the extent of the proposed site disturbance, as defined in § **310-4** of this Code, caused by the demolition, including any proposed site disturbance caused by new construction;
 - (g) A post-demolition landscaping plan in accordance with the Planning Board's requirements, which shall include maintenance of such landscaping and a prohibition against bare areas of soil; and
 - (h) A prohibition against chain-link fencing and gates when demolition is complete.
- (2) If a site plan application for new improvements is pending, no demolition permit may be approved or issued until the new improvements have all required permits and approvals.
- (3) Where an applicant seeks approval for the foundation and/or other below-grade infrastructure or materials to remain on the lot, the applicant shall submit a certified statement from the applicant's engineer that the foundation and such infrastructure and materials and the methods proposed to cover them are structurally sufficient and will not, under reasonably expected circumstances, cause any instability on the lot within the next 10 years.
- (4) Exceptions. Where the Building Official determines that the improvement or part thereof creates an immediate threat to the health, safety, or welfare of the community, the Building Inspector may permit demolition to occur without the Planning Board having first issued site plan approval, including a demolition management plan and site restoration plan. The applicant must, either concurrently during demolition or immediately thereafter if it is not feasible to do so concurrently, seek approval from the Planning Board of a site plan and post-demolition site restoration plan, which shall include the same provisions referenced in Subsection **D(1)** above, and failure to seek such approvals shall be a violation of this Code subject to the penalties set forth in § **310-94** of this Code.
- E.** Waiver of requirements. The Village Planner may waive any of the above submission requirements that it believes to be unnecessary based on the location or scope of the proposed development. Notwithstanding any waiver granted by the Village Planner, the Planning Board may require such information or additional submissions as it deems reasonably necessary to enable it to reach an informed result.
- F.** Processing of applications requiring other approvals. For any application requiring site plan approval which also requires approval from the Board of Appeals or Board of Architectural Review, such application must first be submitted to the Planning Board prior to review by such other Board. No site plan approval or demolition site plan approval may be granted by the Planning Board involving the demolition of a substantial part of any building in the Village, as defined in § **182-3E**, unless a

Certificate of Appropriateness has been first granted pursuant to Chapter 182, Historic Preservation. No site plan approval may be granted by the Planning Board pending the ultimate determination of an appeal made pursuant to §§ **182-11A** and **B** of this Code. Any site plan approval issued by the Planning Board shall incorporate any conditions attached to a Certificate of Appropriateness. Nothing herein shall be construed to prevent the Planning Board from referring an application to the Committee for Historic Preservation due to a change in circumstance or proposed development. Within 62 days of receipt of a complete application, as determined by the Village Planner, the Planning Board shall refer the application, with or without comments, to the other Boards, as applicable and in such order as determined by the Village Planner. The Planning Board shall not issue site plan approval until any required variances or special permits are issued by the Board of Appeals or any Certificate of Appropriateness is issued by the Committee for Historic Preservation. Any substantial change to an approved site plan made by the Board of Appeals, Committee for Historic Preservation, or Board of Architectural Review, as determined by the Building Inspector in consultation with the Village Engineer and Village Planner, must be reapproved by the Planning Board.

§ 251-6 **Construction management plan.**

- A.** Any residential or commercial construction project that is subject to the site plan review and approval of the Planning Board, shall be required to prepare a Construction Management Plan (CMP), unless the Planning Board waives the CMP requirement. The CMP shall be submitted as part of the application for site plan approval and shall be reviewed and approved by the Planning Board and shall be subject to further and final review and approval by the Building Inspector and the Village Engineer, prior to the issuance of any permit for the project.
- B.** The CMP shall include the following information:
 - (1)** Schedule: The applicant shall provide a project schedule.
 - (2)** Job site, facilities, and storage: The CMP shall include the location on the project site of all loading/unloading areas, job box and material storage areas, portable toilet(s), dumpsters, on-site temporary power, any protective fencing around the job site, any trees and vegetation to be preserved, and any trees and vegetation to be removed. These and any other construction-related facilities shall not be located in the public right-of-way without the prior approval of the Building Inspector.
 - (3)** Traffic control plan. The traffic control plan shall identify the path of travel for delivery trucks and emergency vehicles to and from the project site. In addition, all on- and off-site worker parking locations shall be identified, including any carpool pickup and dropoff locations.

- (4) Staging areas. The CMP shall specify construction staging area locations. The CMP shall also address delivery and construction vehicle staging for the duration of the project. The staging plan shall estimate the number of truckloads, number of heavy equipment deliveries, etc., expected and their timing and duration for each stage of the project.
- (5) Stone cutting. If stone cutting is proposed to be done on site, the CMP shall designate the area where stone is to be cut, the approximate number of days of stone cutting, and mitigation measures, including but not limited to noise and dust.
- (6) Excavated materials. The CMP shall describe the estimated quantity of soil being:
 - (a) Excavated;
 - (b) Disposed off site;
 - (c) Stockpiled on site; and
 - (d) How much soil, if any, will be reused on site.

C. Waiver of requirements. The Building Inspector may waive any of the above submission requirements that it believes to be unnecessary based on the location or scope of the proposed development. Notwithstanding any waiver granted by the Building Inspector, the Planning Board may require such information or additional submissions as it deems reasonably necessary to enable it to reach an informed result.

§ 251-7 **Review Standards.**

The following standards are offered to facilitate guidance during the Planning Board's review and evaluation of a site plan. As no two parcels of land are exactly alike, and each proposed site plan introduces a different set of circumstances into the evaluation equation, the factors to be reviewed and the relative weight given to them will vary from site to site. Therefore, these standards are not exclusive nor mandatory, but are to be considered by the Planning Board as they determine, in their sole discretion, is appropriate.

- A.** Landscape and environment. To prevent the unnecessary destruction of the existing landscape and improvements, particular consideration shall be given to the following:
 - (1) Provision for minimal degradation of unique or irreplaceable land types and protection of the water flow of aquifers and other ground watercourses and wetlands;
 - (2) Preservation of desirable land characteristics and significant geological and topographic features;

- (3) Examination of any proposed change in the topography of the site;
 - (4) Preservation or replacement of existing trees and treescapes, plants, and other vegetation;
 - (5) Preservation and protection of historical, archaeological and landmark areas and structures;
 - (6) Protection of animal and plant life processes; and
 - (7) Underground placement of utility services.
- B.** Relationship of structures and open space. To assure harmony between development and open spaces in the Village particular consideration shall be given to:
- (1) Siting of buildings and accessory structures and equipment;
 - (2) Landscape design;
 - (3) Location and layout of walks, drives, and other site features;
 - (4) Preservation of views from the site and from public areas;
 - (5) Provisions of screening around and landscape treatment within open parking and service areas;
 - (6) Relationship and scaling of building design and exterior architectural features to the environment to which it is visually related and to the pedestrian; and
 - (7) Likelihood of nuisances.
- C.** Circulation and parking. To determine that the proposal facilitates safe and appropriate pedestrian access, vehicular traffic movement, servicing, and parking within the Village, particular consideration shall be given to:
- (1) Vehicle sight lines at street and drive intersections;
 - (2) Provisions for access and movement of fire and emergency vehicles;
 - (3) Width and alignment of drives and access roads and layout of parking and service areas;
 - (4) Location and distance of curb cuts in relation to street intersections;
 - (5) Effect of traffic generated by the proposed development upon surrounding streets, intersections, and off-site parking; and

- (6) Appropriateness of location, width, and layout of internal circulation to the proposed development.
- D. Protection of neighbors. To protect owners and users and the Village by providing for such matters as:
 - (1) Surface water drainage;
 - (2) Sound and sight buffers;
 - (3) Natural light and air;
 - (4) Disposal of solid, liquid, and gaseous waste and for avoidance of odors and air pollutants; and
 - (5) Aspects of design not adequately covered by other regulations which may have substantial effects on neighboring land uses and the functioning of the Village and its services.
- E. Compliance with other laws and regulations. To coordinate compliance with other standards and local, state, and federal laws and regulations which affect design:
 - (1) The Comprehensive Plan;
 - (2) This chapter and other local laws related thereto;
 - (3) New York State Uniform Code;
 - (4) Utility standards and regulations;
 - (5) Environmental protection laws;
 - (6) Pollution control standards;
 - (7) Noise control standards; and
 - (8) Floodplain regulations.
- F. Surface water drainage. The Planning Board's review of stormwater management, erosion, sediment, and pollution control shall be in accordance with Chapter 254 of this Code.
- G. Application to accessory uses. The standards of review prescribed by this section shall also apply to all accessory buildings, structures, freestanding signs, and other site features, however related to primary buildings or structures of a site development.

H. The Planning Board may refer matters to other land use boards for review and reporting, and to require performance bonds or other security sufficient to cover the cost of compliance.

§ 251-8 **Conditions attached to the approval of site plans.**

The Planning Board shall have the authority to impose reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Upon its approval of the site plan, any conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Village.

§ 251-9 **Expiration of site plan approval.**

At the time of approving the site development plan, the Planning Board may set forth the time period in which construction is to begin and be completed. Otherwise, a building permit must be applied for within 12 months of site plan approval, construction commenced within 18 months of approval, and a Certificate of Occupancy obtained by the later of two years from site plan approval or 18 months after issuance of a Building Permit. The Planning Board may, in its discretion, extend any time period it has previously set where it finds that changing market conditions or other circumstances have acted to prevent the timely commencement or completion of work and that the developer has proceeded with reasonable diligence in an effort to assure completion of the work within the permitted time period. The extension of these time periods shall not require the holding of a new public hearing.

§ 251-10 **Conflict with other provisions.**

In the event any of the provisions set forth in Chapter 251 of this Code, concerning Site Plan Review, conflict with any of the provisions of site plan review set forth in Chapter A319 of this Code, this Chapter shall control and supersede such inconsistent provision(s).

Section 5. Chapter 310 of the Code of the Village of Scarsdale, Article I – General Provisions, is hereby amended as follows:

Article I **General Provisions**

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§ 310-2 **Definitions.**

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REQUIRED OPEN SPACE

The percentage of the surface area of a lot that is unoccupied by any structure, building, parking, paving, or other surface deemed to be impervious, and which is vegetated and open to the sky, either in its natural unimproved state or landscaped with lawn, trees, other plants, natural rock outcroppings, natural water features, or wetlands. Artificial turf, driveways,

parking areas, patios, and walkways, regardless of surface composition, are deemed not to be open space.

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SITE DISTURBANCE

Any change to land, including, but not limited to, clearing, grading, excavating, transporting, and filling of land. This includes any change to land which may result in soil erosion from water or wind and the movement of soil into water or onto lands, alteration of a drainage system, or increased runoff of waters.

SKY EXPOSURE PLANE

A virtual sloping plane that begins at the property line fronting the street and extends upward at an angle to meet the maximum required building height for a lot.

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Section 6. Chapter 310 of the Code of the Village of Scarsdale, Article II – Use Restrictions, is hereby amended as follows:

Article II Use Restrictions

§ 310-7 Residence A Districts.

In any Residence A District, no building or premises shall be used or maintained for any except the following purposes, 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 purposes:

...

- I.** Uses or buildings customarily incidental or accessory to the uses herein specifically permitted and as permitted in Article **XI**; such uses shall not include any billboard or advertising sign. This provision shall not be deemed to permit any swimming pool nor to permit any driveway or walk giving access to premises used for public purposes or used for purposes not permitted in a Residence A District. No part of any accessory building shall be used for sleeping or living quarters except by members of the family occupying the principal building on the lot or full-time employees of such family and members of the immediate families of such employees. No part of any accessory building shall be used for the preparation of meals. No part of any lot shall be used for the parking or storage of a commercial vehicle, except when necessary to make deliveries or render services to the occupant of the lot and except as permitted by Subsection **K** of this section. A change in the use of an accessory structure may require a building permit, but shall not require approvals or permits from land use boards provided the new use is not inhabited or used for dwelling purposes and the footprint and height of the accessory structure is not increased.

Section 7. Chapter 310 of the Code of the Village of Scarsdale, Article II – Use Restrictions, is hereby amended as follows:

Article II Use Restrictions

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§ 310-12 Village Center Area Districts.

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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:

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(6) Planned Unit Development - 0.8 to 1.4 (PUD - 0.8 to 1.4).

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(b) In the Planned Unit Development - 0.8 to 1.4 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:

...

[2] All floors: residences, provided that no less than 10% of the residential floor area ratio is devoted to senior citizen housing and, in addition, public parking subject to special permit by the Village Board in accordance with the standards and requirements of Subsection C(3)(a)[6] and § 310-28.1B hereof, and telephone exchanges if permitted by the Planning Board pursuant to § 310-89A(10).

...

(7) In the Planned Unit Development – 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, and intended to be used for any except the following principal purposes:

...

- [2] Residences, provided that no less than 10% of the residential floor area ratio is devoted to senior citizen housing. A "senior citizen household" is a household in which at least one resident member has attained the age of 65 years or more on the date that such household initially occupies the dwelling unit.

Section 8. Chapter 310 of the Code of the Village of Scarsdale, Article III- General Dimensional Requirements, is hereby amended as follows:

Article III General Dimensional Requirements

...

§ 310-19 Lots at a distance from a street.

- A. The creation of lots at a distance from a street is prohibited. Such interior lots, commonly called “flag lots,” provide access to a street over a narrow strip of land running from the main portion of the lot.
- B. Legal nonconforming interior lots approved under former Section 12-10-7 and interior lots permitted by variance are subject to site plan review by the Planning Board. Any proposed erection, enlargement, or alteration of a building or buildings on such lot, including swimming pools and tennis courts, must be approved by the Planning Board.
- C. Applications for approval of a site plan under this section shall comply with all requirements and standards set forth under Chapter **251** of this Code.

Section 9. Chapter 310 of the Code of the Village of Scarsdale, Article IV – Lot Area Coverage, is hereby amended as follows:

Article IV Lot Area Coverage

...

§ 310-21 Definitions.

...

IMPERVIOUS SURFACES

- A. Man-made or -assembled surfaces which block the absorption of water by the ground and have a runoff curve number pursuant to the United States Department of Agriculture, Soil Conservation Service, Engineering Division standards as stated in Technical Release No. 55, as follows:

Soil Class	Runoff Curve Number
Class A	77 and greater
Class B	86 and greater
Class C	90 and greater
Class D	92 and greater

- B.** Impervious surfaces include paved driveways, paved patios, porous asphalt, gravel, and other such facilities.

...

§ 310-23.1 **Required open space in Residence A districts.**

Subject to the exceptions specified in § 310-67 of this Code, any lot located in a residence district shall have a minimum percentage of required open space, as defined in § 310-2 of this Code, as follows:

Zoning District	Required Open Space
A-5: 5,000 sf min.	30%
A-4: 7,500 sf min.	35%
A-3: 10,000 sf min.	40%
A-2a: 15,000 sf min.	45%
A-2: 20,000 sf min.	50%
A-1: 1 acre	55%
AA-1: 2 acres	65%

Section 10. Chapter 310 of the Code of the Village of Scarsdale, Article V – Building Heights and Areas, is hereby amended as follows:

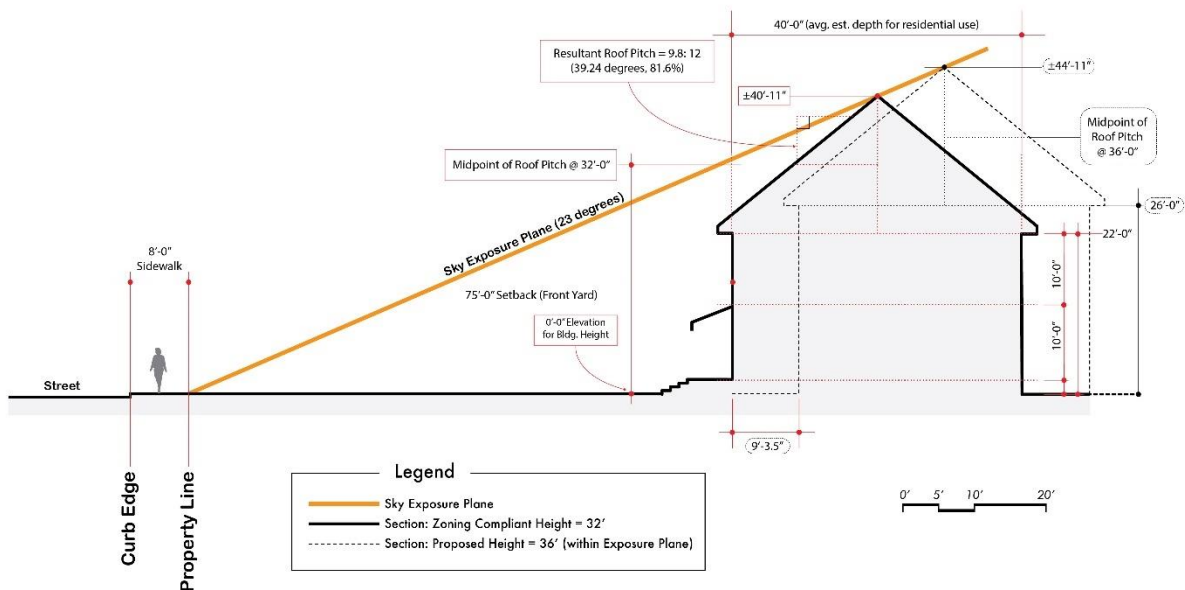
Article V **Building Heights and Areas**

...

§ 310-25 **Residence A Districts.**

- A.** Except as provided in § **310-25D** below, no residential building shall exceed 32 feet in height. No nonresidential building shall exceed the height as may be prescribed by the Planning Board pursuant to Chapter **251**, Site Plan Review, of this Code, and in no case shall a story of any building be less than nine feet in height.
- B.** The area of any lot occupied by nonresidential buildings, structures, and impervious surfaces shall not exceed such percentage of the gross area of such lot as may be prescribed by the Planning Board pursuant to Chapter **251**, Site Plan Review, of this Code.
- C.** No individual nonresidential building on any lot shall exceed such length or width as may be prescribed by the Planning Board pursuant to Chapter **251**, Site Plan Review, of this Code.
- D.** In the AA-1 Residence District only, a house may exceed the maximum building height of 32 feet through use of the sky exposure plane, as defined in § **310-2** of this Code, if the house is set back from the front property line. The diagram below illustrates how a house that is set back farther than the required 75 feet front the front property line can achieve a height of 36 feet by meeting the sky exposure plane. In no case shall the building height exceed 36 feet, and, in all cases, the minimum front yard setback shall be 75 feet.

(Fig. 1) Village of Scarsdale | Residential Sky Exposure Plane Analysis
 (AA-1 Zoning District) – Level Site



...

§ 310-28.1 Village Center Area Districts.

...

B. Incentive density. It is recognized that the PUD zones established within the Village Center Area are unique because they encompass the largest sites and the major portion of the areas future development potential. As such, they represent the most significant opportunity for the achievement of the basic public benefit purposes and objectives of the Village Center Area. Therefore, to provide an incentive which will further encourage the most appropriate use and development of those sites in a manner designed to achieve the Village's adopted planning objectives, the Village Board of Trustees may allow, by special permit and following a public hearing held on notice duly given in the same manner as is required by law for zoning amendments, an increased FAR and/or building height or special uses, within the limits as set forth in Subsection A hereof and subject to the provision of specific public benefit features. It may also choose not to allow any such change or increase. Village Board action on such an application shall be taken only after review of the proposed plan by the Planning Board and the submission of a report and recommendation by said Board to the Trustees. Final site plan approval by the Planning Board shall not occur until after the special permit determination by the Village Board. The incentive features and the guidelines for Village Board action are as described below:

- (1) The specific public benefit features for which incentive density increases may be granted in the PUD -- 1.0 to 2.0 Zone are as follows:

...

- (b) The provision of housing units specifically designed for and limited in occupancy to senior citizens.

...

- (6) In determining the specific amount of density increase to be granted, if any, the following additional factors, specific to certain benefit features to be provided, will guide the Village Board.

...

- (b) Senior citizen housing.

...

- [2] The following additional factors will also be taken into consideration by the Village Board in connection with the grant of any density incentive increase for the provision of senior citizen housing:

...

- [d] The consistency of the proposed pricing of the senior citizen units with the special nature and restrictions applicable to such units and the needs of the senior citizen market which they are intended to serve.

...

Section 11. Chapter 310 of the Code of the Village of Scarsdale, Article VII – Rear Yard Setbacks, is hereby amended as follows:

Article VII Rear Yard Setbacks

...

§ 310-47 Accessory buildings.

- A.** Any accessory building, except as set forth in § **310-48** of this Code, shall set back from the rear lot line at least:

- (1) In a Residence AA-1 District: 15 feet.

- (2) In a Residence A-1 District: 10 feet.
- (3) In a Residence A-2, A-2a or A-3 District: five feet.
- (4) In a Residence A-4, A-5 or C District: four feet.

...

Section 12. Chapter 310 of the Code of the Village of Scarsdale, Article VIII – Side Yard Setbacks, is hereby amended as follows:

Article VIII Side Yard Setbacks

...

§ 310-51 Residence A Districts.

A. Except as provided in §§ **310-48, 310-53, 310-59** and **310-67**, every building, other than a building on a corner lot, in a Residence A District shall set back from each side lot line at least:

- (1) In a Residence AA-1 District: 30 feet.
- (2) In a Residence A-1 District: 20 feet.
- (3) In a Residence A-2 District: 15 feet, with a combined side yard setback of 36 feet.
- (4) In a Residence A-2a District: 15 feet, with a combined side yard setback of 32 feet.
- (5) In a Residence A-3 District: 10 feet, with a combined side yard setback of 24 feet.
- (6) In a Residence A-4 District: 10 feet, with a combined side yard setback of 22 feet.
- (7) In a Residence A-5 or B District: 10 feet.

B. Other than as provided in §§ **310-48, 310-53** and **310-67**, every accessory building shall conform to the setbacks as set forth in Subsection **A** above, except that an accessory building shall be set back not less than the following distances from a side lot line other than a street line:

- (1) Any accessory building in a Residence AA-1, A-1, or A-2 District, all parts of which are over 100 feet from any street line.

- (a) In the Residence AA-1 District: 20 feet.
 - (b) In the Residence A-1 District: 14 feet.
 - (c) In the Residence A-2 District: 12 feet.
- (2) Any accessory building in a Residence A-2a District, all parts of which are over 80 feet from any street line: 10 feet.
- (3) Any accessory building in a Residence A-3, A-4, or A-5 District, all parts of which are over 60 feet from any street line:
- (a) In a Residence A-3 District: 8 feet.
 - (b) In a Residence A-4 District: 6 feet.
 - (c) In a Residence A-5 District: 4 feet.

Section 13. Chapter 310 of the Code of the Village of Scarsdale, Article X – General Regulations, is hereby amended as follows:

Article X **General Regulations**

...

§ 310-67 **Nonconforming uses, lots and buildings.**

...

E. Nonconforming lot coverage. Nothing in this chapter shall prohibit the repair or replacement in-kind, as determined by the Building Inspector, of any legal nonconforming impervious surface or structure, such as a driveway, walkway, patio, tennis court, or swimming pool, provided such repair or replacement is completed within 12 months of any removal of the impervious surface or structure. Replacement in-kind shall not include the replacement of one type of impervious surface or structure for another, such as the replacement of a patio with a tennis court. Such repair or replacement shall not increase the existing impervious coverage on the lot. Notwithstanding any other provision or Section of this Code, Subsection **E** shall not apply where site disturbance exceeds the threshold requiring site plan review established in § **251-1C(1)**.

Section 14. Chapter 310 of the Code of the Village of Scarsdale, Article XVI – Floor Area Ratio (FAR) for Houses in Residence A Districts, is hereby amended as follows:

Article XVI **Floor Area Ratio (FAR) for Houses in Residence A Districts**

...

§ 310-102 **Maximum floor area ratio.**

As illustrated herein as Table XVI-1, the maximum permitted floor area ratio (FAR) for houses shall be as follows:

- A.** Lots of 4,999 square feet or less shall have a maximum FAR of 0.425 (maximum floor area ratio = 0.425).
- B.** Lots between 5,000 square feet and 9,999 square feet shall have a maximum FAR of 0.425, minus 0.016 for every 1,000 square feet or part thereof in excess of 5,000 square feet [maximum floor area ratio = $0.425 - ((\text{lot size} - 5,000) \div 1,000) \times 0.016$].
- C.** Lots between 10,000 square feet and 14,999 square feet shall have a maximum FAR of 0.345, minus 0.012 for every 1,000 square feet or part thereof in excess of 10,000 square feet [maximum floor area ratio = $0.345 - ((\text{lot size} - 10,000) \div 1,000) \times 0.012$].
- D.** Lots between 15,000 square feet and 29,999 square feet shall have a maximum FAR of 0.285, minus 0.006 for every 1,000 square feet or part thereof in excess of 15,000 square feet [maximum floor area ratio = $0.285 - ((\text{lot size} - 15,000) \div 1,000) \times 0.006$].
- E.** Lots between 30,000 square feet and 34,999 square feet shall have a maximum FAR of 0.195, minus 0.0045 for every 1,000 square feet or part thereof in excess of 30,000 square feet [maximum floor area ratio = $0.195 - ((\text{lot size} - 30,000) \div 1,000) \times .0045$].
- F.** Lots between 35,000 square feet and 39,999 square feet shall have a maximum FAR of 0.1725, minus 0.003 for every 1,000 square feet or part thereof in excess of 35,000 square feet [maximum floor area ratio = $0.1725 - ((\text{lot size} - 35,000) \div 1,000) \times .003$].
- G.** Lots between 40,000 square feet and 44,999 square feet shall have a maximum FAR of 0.1575, minus 0.002 for every 1,000 square feet or part thereof in excess of 40,000 square feet [maximum floor area ratio = $0.1575 - ((\text{lot size} - 40,000) \div 1,000) \times .002$].
- H.** Lots between 45,000 square feet and 49,999 square feet shall have a maximum FAR of 0.1475, minus 0.0015 or part thereof for every 1,000 square feet or part thereof in excess of 45,000 square feet [maximum floor area ratio = $0.1475 - ((\text{lot size} - 45,000) \div 1,000) \times .0015$].
- I.** Lots of 50,000 square feet and greater shall have a maximum FAR of 0.14 [maximum floor area ratio = 0.14].

Table XVI-1
Illustrative Table of Maximum Floor Area Ratio (FAR)

Lot Size (square feet)	Maximum FAR	Resulting Gross Residential Floor Area (square feet)
3,000	0.425	1,275
4,000	0.425	1,700
5,000	0.425	2,125
6,000	0.409	2,454
7,000	0.393	2,751
8,000	0.377	3,016
9,000	0.361	3,249
10,000	0.345	3,450
11,000	0.333	3,663
12,000	0.321	3,852
13,000	0.309	4,017
14,000	0.297	4,158
15,000	0.285	4,275
16,000	0.279	4,464
17,000	0.273	4,641
18,000	0.267	4,806
19,000	0.261	4,959
20,000	0.255	5,100
21,000	0.249	5,229
22,000	0.243	5,346
23,000	0.237	5,451
24,000	0.231	5,544

Lot Size (square feet)	Maximum FAR	Resulting Gross Residential Floor Area (square feet)
25,000	0.225	5,625
26,000	0.219	5,694
27,000	0.213	5,751
28,000	0.207	5,796
29,000	0.201	5,829
30,000	0.195	5,850
31,000	0.1905	5,906
32,000	0.186	5,952
33,000	0.1815	5,990
34,000	0.177	6,018
35,000	0.1725	6,038
36,000	0.1695	6,102
37,000	0.1665	6,161
38,000	0.1635	6,213
39,000	0.1605	6,260
40,000	0.1575	6,300
41,000	0.1555	6,376
42,000	0.1535	6,447
43,000	0.1515	6,515
44,000	0.1495	6,578
45,000	0.1475	6,638
46,000	0.146	6,716

Lot Size (square feet)	Maximum FAR	Resulting Gross Residential Floor Area (square feet)
47,000	0.1445	6,792
48,000	0.143	6,864
49,000	0.1415	6,934
50,000	0.14	7,000
51,000	0.14	7,140
52,000	0.14	7,280
53,000	0.14	7,420
54,000	0.14	7,560
55,000	0.14	7,700
56,000	0.14	7,840
57,000	0.14	7,980
58,000	0.14	8,120
59,000	0.14	8,260
60,000	0.14	8,400
61,000	0.14	8,540
62,000	0.14	8,680
63,000	0.14	8,820
64,000	0.14	8,960
65,000	0.14	9,100
66,000	0.14	9,240
67,000	0.14	9,380
68,000	0.14	9,520

Lot Size (square feet)	Maximum FAR	Resulting Gross Residential Floor Area (square feet)
69,000	0.14	9,660
70,000	0.14	9,800
71,000	0.14	9,940
72,000	0.14	10,080
73,000	0.14	10,220
74,000	0.14	10,360
75,000	0.14	10,500
76,000	0.14	10,640
77,000	0.14	10,780
78,000	0.14	10,920
79,000	0.14	11,060
80,000+	0.14	As per calculation

...

§ 310-104 Side yard setback FAR incentive.

- A. In all Residence A Zones, except the AA-1 Zone and A-5 Zone, for each additional foot that a house exceeds the minimum required side yard setback, an additional 100 square feet of floor area above the maximum permitted FAR on that lot as per § 310-102 shall be permitted. In the A-5 Zone, for each additional foot and a half that a house exceeds the minimum required side yard setback, an additional 100 square feet of floor area above the maximum permitted FAR on that lot as per § 310-2 shall be permitted.
- B. The maximum allowable FAR incentive within each Zoning district shall be as follows: 200 square feet for lots located in the A-5 Zone; 225 square feet for lots located within the A-4 Zone; 300 square feet for lots located in the A-3 Zone; 350 square feet for lots located in the A-2a Zone; 400 square feet for lots located in the A-2 Zone; and 800 square feet for lots located within the A-1 Zone.

Section 15. Chapter 310 of the Code of the Village of Scarsdale, Article XV – Enforcement and Administration, is hereby amended as follows:

Article XV **Enforcement and Administration**

...

§ 310-94 **Penalties for offenses.**

- A.** Any owner, lessee, contractor, corporation, architect, builder, engineer, surveyor, agent, employee, or other natural or non-natural person, or the agent or employee of any of them, who uses or maintains or causes to be used or maintained any building or premises or any part thereof in the Village for any purpose other than the uses permitted therefor in this chapter or who erects, enlarges, alters, or maintains or causes to be erected, enlarged, altered, or maintained any building or any part thereof in the Village, except in conformity with the provisions of this chapter, or who uses or maintains or causes to be used or maintained any building or any part thereof in the Village which has been erected, enlarged, or altered other than in conformity with the provisions of this chapter or who otherwise violates or causes to be violated any provision of this chapter shall, upon conviction thereof, be guilty of a violation under this Code (and not pursuant to the Penal Law of the State of New York) and subject to punishment as follows:
- (1) First offense, by a fine not less than \$500, not to exceed \$1,000, or by imprisonment not exceeding 15 days, or both. The penalty for a corporate offender's first offense, by fine not less than \$2,500, not to exceed \$5,000, or any higher amount not exceeding double the amount of the corporation's gain from the commission of the offense. Each day that any such violation shall continue or exist shall constitute a separate and distinct offense hereunder.
 - (2) For a second offense within five years after a conviction of a first offense, by a fine not less than \$1,500, not to exceed \$2,500, or by imprisonment not exceeding 15 days, or both. The penalty for a corporate offender's second offense, by fine not less than \$7,500, not to exceed \$15,000, or any higher amount not exceeding double the amount of the corporation's gain from the commission of the offense. Each day that any such violation shall continue or exist shall constitute a separate and distinct offense hereunder.
 - (3) For a third offense within five years after a conviction of a second offense, which took place within three years after a conviction of the first offense, by a fine not less than \$4,000, not to exceed \$6,000, or by imprisonment not exceeding 15 days, or both. The penalty for a corporate offender's third offense, by fine not less than \$25,000, not to exceed \$50,000, or any higher amount not exceeding double the amount of the corporation's gain from the commission of

the offense. Each day that any such violation shall continue or exist shall constitute a separate and distinct offense hereunder.

- B.** In addition to those penalties prescribed above, any person who violates any provision of this chapter shall be liable to a civil penalty not to exceed \$50,000. The civil penalty provided by this subsection shall be recoverable in an action instituted in the name of the Village of Scarsdale.
- C.** If any person fails to abate any violation of this chapter within five calendar days after written notice has been served personally upon said person or within 10 days after written notice has been sent to such person by registered mail at such person's home or business address, the Building Inspector may revoke any building permit or certificate of occupancy for any building or structure on the premises on which such violation occurs, and such person shall be subject to a civil penalty in a minimum amount of \$1,000 not to exceed \$2,500 for each and every day that such violation continues, recoverable by suit brought by the Village and to be retained by it.
- D.** A civil action may also be commenced in the name of the Village of Scarsdale seeking to disgorge profits realized by any person who violates any provision of this Chapter.
- E.** Any violation of this chapter may also be enjoined pursuant to law.
- F.** The remedies provided for herein shall be cumulative and shall be in addition to any other remedies provided by law.

...

§ 310-98 **Fees.**

- A.** For the purposes of defraying administrative costs involved in the review of applications and appeals and the costs of legal notices required by law, all applications and appeals shall be accompanied by a fee, payable to the Village of Scarsdale, as established by the Village Board.
- B.** For the purposes of defraying administrative costs involved in the review and costs of legal notices required by law, all applications or petitions requesting any amendment or change to these zoning regulations, the zoning districts, or zoning district boundaries shall be accompanied by a fee, payable to the Village of Scarsdale, as established by the Village Board.
- C.** The Village Board, the Board of Appeals, the Planning Board, or the Board of Architectural Review, in the review of any application, petition, or appeal under its jurisdiction, or Village staff in its determination of zoning compliance or other technical findings, may refer any such application, petition, or appeal presented to it to such engineering, planning, legal, technical, or environmental consultant or other

professionals as such Board shall deem reasonably necessary to enable it to review such application as required by law. Charges made by such consultants shall be in accord with fees usually charged for such services in the metropolitan New York region or pursuant to an existing contractual agreement between the Village and such consultant. All such charges shall be paid by the Village upon submission of a detailed statement. The applicant shall reimburse the Village for the cost of such professional review services upon submission of a copy of the statement or at the discretion of the reviewing board, in accordance with § 310-98D of this chapter. The payment of such fees shall be required in addition to any and all other fees required by this or any other section of this chapter or any other Village law or regulation.

D. At any time during review of any application, petition or appeal, the reviewing board, or its designee may require the establishment of an escrow account or accounts from which withdrawals shall be made to reimburse the Village for such cost of professional review services, including, without limitation, such cost of professional review services provided under the State Environmental Quality Review Act,^[1] 6 NYCRR 617, and Chapter 152 of the Village Code. Alternatively, the reviewing board or its designee may require a flat fee in an amount set forth in the Village Fee Schedule, for the cost of professional review services, upon submittal of the application. Payment of a flat fee shall not preclude the reviewing board, or its designee, from later requiring additional funds and the establishment of an escrow account as provided herein.

(1) The applicant shall provide escrow funds to the Village for deposit into such account(s), in an amount to be determined by the reviewing board or its designee, based on its evaluation of the nature and complexity of the application.

(2) The applicant shall be provided with copies of any statement for such services when such statements are submitted to the Village.

(3) A building permit or certificate of occupancy shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the Village. After all pertinent charges have been paid, the Village shall refund any funds remaining on deposit to the applicant.

^[1] *Editor's Note: See Article 8 of the Environmental Conservation Law.*

Section 16. Appendix Chapter A319 of the Code of the Village of Scarsdale, Article VII – Rules for Various Applications, is hereby amended as follows:

Article VII Rules for Various Applications

...

§ A319-42 **Site Plans for lots not fronting on streets.**

An application for approval of a site plan pursuant to § **310-19** of the Code of the Village of Scarsdale shall be submitted to the Planning Board for review and approval, approval with modifications or disapproval, in accordance with the requirements and standards Chapter **251** of this Code.

§ A319-43 **Site plans and special use permits for nonresidential and multifamily dwellings.**

Applications for approval of a site plan and for a special use permit for a nonresidential building or multifamily dwelling, shall be submitted to the Planning Board for review and approval, approval with modifications, or disapproval, pursuant to Chapter **251**, Site Plan Review, of the Code of the Village of Scarsdale.

...

§ A319-45 **Applications for cluster development.**

Applications requiring consideration pursuant to § 7-738 of the Village Law shall be submitted with eight copies and shall contain, in addition to the information required in § **A319-41**, the following:

- A. A written statement that the owner is submitting the application pursuant to § 7-738 of the Village Law.
- B. A plan showing the number of dwelling units that could be created on the property if the plan conformed to all conventional Board regulations and Code requirements for subdivision, including provision for roads and access ways and lands, if any, to be set aside for parks, recreation, or open space purposes.
- C. A site plan for a number of dwelling units which in no case shall exceed the number of dwelling units shown on the plan submitted pursuant to Subsection **B** above. Such site plan shall be submitted to the Planning Board for review and approval, approval with modifications, or disapproval, in accordance with the requirements and standards set forth in Chapter **251** of this Code, all drawn to the specifications in § **A319-41**.
- D. Calculations showing the lot coverage pursuant to § **310-20** of the Code of the Village of Scarsdale, as provided for on a form supplied by the Village.
- E. A proposal for control and maintenance of any roads, structures, utilities, or common lands or other common elements to be established by the proposed development.
- F. An indication that the corners of the proposed new lots, the corners of the proposed new buildings, center line of streets, and other improvements have been staked in the field.
- G. Such other information as the Board may require.

Section 17. Applicability.

This local law shall apply to residential building permit applications or land use applications submitted after the date of adoption of this local law. For avoidance of doubt, the following are exempt from complying with this local law: (i) residential building permit issued or land use approval received prior to the adoption of this local law; (ii) residential building permit application or land use approval application submitted prior to the adoption of this local law and deemed by the Building Inspector or Planner to be a complete application and receives all required land use approvals by December 31, 2024; or (iii) an application which requires approval from more than one land use board and has received at least one land use board approval as of the date of adoption of this local law and receives all required land use approvals by December 31, 2024. These exemptions shall not apply for any amendment to a previously approved project, including but not limited to, projects which were issued a building permit and/or land use approvals, that increases the building footprint or exceeds the FAR permitted in this local law or decreases the rear or side yard setbacks on the approved plans, such site plan in its entirety must conform to this local law. After December 31, 2024, all new, pending, or amended applications for building permits and land use approvals must comply with this local law.

Section 18. Repeal of Moratorium.

Local Law No. 1 of 2024, which enacted a six (6) month moratorium on the acceptance, processing, review, and approval of certain land use applications, is hereby repealed in its entirety as of the effective date of this local law set forth in Section 22 below.

Section 19. Ratification, Readoption, and Confirmation.

Except as specifically modified by the amendments contained herein, the Village Code of the Village of Scarsdale is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 20. Numbering for Codification.

It is the intention of the Village of Scarsdale and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the Village of Scarsdale; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word “Local Law” shall be changed to “Chapter,” “Section” or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 21. Severability.

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional or inapplicable to

any person or circumstance, such illegality, invalidity, or unconstitutionality or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word, or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt therefrom.

Section 22. Effective Date.

This local law shall take effect immediately upon filing with the Office of the Secretary of State.