

## PUBLIC NOTICE

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Smithtown, Suffolk County, State of New York will meet at the Victor T. Liss Board Room, Town Hall, 99 West Main Street, Smithtown, New York, on the 6th day of October, 2015 at 2:00 PM, time then in effect to consider various proposed amendments to Chapter 322 of the Code of the Town of Smithtown entitled Building Zone Ordinance as follows:

Additions indicated by underlines

Deletions indicated by ~~strikeouts~~

§322-3. Word usage; definitions.

B. Definition of terms. As used in this chapter, the following terms shall have the meanings indicated:

~~CONGREGATE-CARE FACILITIES - Any residential development providing efficiency or one- or two-bedroom dwelling units with common dining, recreation and medical or nursing home facilities for persons in excess of 65 years of age. In the case of a married couple, only one of the spouses must be in excess of 65 years of age. A "congregate-care facility" must include the following:~~

- ~~(1) An association with a fully licensed staffed hospital or nursing home facility on or adjacent to the site of the "congregate-care facility," which provides skilled care to residents requiring such services on a priority basis.~~
- ~~(2) Kitchen and dining room facilities offering no less than one common meal to all residents each day.~~
- ~~(3) A call-button monitoring system for emergency calls directly to supervisory staff on premises.~~
- ~~(4) A medical history on file for each permanent resident.~~
- ~~(5) On-premises physical therapy.~~
- ~~(6) On-premises in-house sale and distribution of personal services and food items for residents of the facility.~~
- ~~(7) Library, educational, social and occupational facilities.~~
- ~~(8) Available transportation for residents from the facility to shopping, medical, recreational and other major desired points of destination.~~

~~(9) A minimum unit size of 450 square feet of habitable floor area.~~

~~DEVELOPMENT - Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment materials.~~

~~FLOOR AREA, MINIMUM HABITABLE - The total horizontal area of all stories of a dwelling unit, measured between the outside walls of the building, but excluding garages, carports, open porches, terraces, utility rooms, basements and those floor areas that have a clear ceiling height of less than seven feet six inches. - The "minimum habitable floor area" requirement of a dwelling with a height of more than one story shall be increased by 300 square feet to allow for stairs and additional hallway areas.~~

~~HOME PROFESSIONAL OFFICE -~~

~~(1) The office or studio of a resident physician, surgeon, chiropractor, dentist, lawyer, architect, artist, engineer or teacher as herein restricted, provided that not more than one person is employed who is not a member of the resident family, that such office shall be in the main building and shall not occupy more than 700 square feet of the area of the main structure and, further, that the remaining floor area shall be at least equal to the minimum required habitable floor area. - For the purpose of this chapter, a teacher shall be restricted to a person giving individual instruction in academic, musical or artistic subjects to a single pupil at a time. A "home professional office" shall not include the office of any person professionally engaged in the purpose or sale of economic goods. Tearooms, tourist homes, beauty parlors, barbershops, hairdressing and manicuring establishments, convalescent homes, funeral homes, real estate and insurance offices and veterinarian's offices or animal hospitals shall not be deemed to be "home professional offices." - The "home professional office" of a physician shall not include a biological or other medical testing laboratory. Said use shall recognize and provide for further specific conditions and safeguards that may be required by the Site Plan Review Board.~~

~~(2) Any "home professional office" which had been in existence in compliance with this definition and Chapter 322, the Building Zone Ordinance of the Town of Smithtown, prior to October 9, 1984, shall be subject to the provisions of Article XI of the Building Zone Ordinance.~~

~~LOWEST FLOOR - The lowest floor of the lowest enclosed area (including basement or cellar). - An unfinished or flood-resistant enclosure usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's "lowest floor," provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.~~

VARIANCE - Authorization by the Board of Zoning Appeals, or the Planning Board where authorized pursuant to ~~§ 322-19B~~ §322-30.4 of this chapter or § 248-31A and B of the Town Code, to utilize land for a use or in a manner otherwise prohibited by this chapter.

§322-19. Environmentally sensitive lands.

B. No environmentally sensitive land shall be used to calculate the permitted density, building coverage, floor area or minimum lot area, ~~Except as provided herein:~~

~~(1) The Planning Board shall have the authority to vary the requirements of Subsection B above to permit the inclusion of environmentally sensitive lands in the calculation of permitted density, building coverage, floor area or minimum lot area, in the following circumstances:~~

~~(a) Where land is deemed environmentally sensitive because the depth to groundwater is equal to or less than 10 feet, the Planning Board may grant a variance for up to 50% of the maximum permissible yield if the land were deemed not to be environmentally sensitive.~~

~~(2) In considering a request for a variance from the requirements of this section, the Planning Board shall adhere to the applicable provisions set forth in Chapter 248 of the Town Code.~~

~~(3) If, after due consideration of Subsection B(1)(a) and (b), the calculated density, building coverage, floor area or minimum or maximum lot area of the entire parcel of land in question is zero because of a determination that the entire parcel has been classified as environmentally sensitive, then the Planning Board is authorized to permit a maximum yield of one unit for the entire parcel of land.~~

## ARTICLE XII BOARD OF APPEALS

§322-82. Special exception uses.

C. Special standards for certain special exception uses.

~~(12) Mini storage warehouse. The following requirements shall be met:~~

~~(a) The premises shall comply with the provisions of §322-30.1 of this chapter.~~

~~(b) The landscaped area shall be at least 25% of the lot.~~

(12) (RESERVED)

(17) Theater; multiplex theater; outdoor theater. The following requirements shall be met:

(d) Multiplex theater.

[1] ~~The proposed use shall be on a site of not less than five acres with no less than 200 feet of street frontage.~~

[2] ~~The entrance to the site shall be located at least 1,000 feet from the intersection of any two major arterial roads as classified by the Town's Comprehensive Plan.~~

[3] ~~The proposed site shall be at least 500 feet from the local waterfront area and the tributaries of the Nissequogue River.~~

[4] ~~Suitable and safe pedestrian access between the parking and the building shall be provided, subject to the approval of the Town of Smithtown Traffic Safety Director.~~

[5] ~~A loading zone of at least one square foot per 20 square feet of gross floor area shall be provided between the parking and the building entrance.~~

[6] ~~A minimum landscaped area of 18% of the site area shall be provided, not including any required buffer zone.~~

[7] ~~A one-hundred-foot buffer zone shall be constructed with dense evergreen shrubs and trees adjacent to residential districts.~~

[8] ~~No structure shall be built within 200 feet of any residence district.~~

[9] ~~Buildings shall be set back from all lot lines as required in §322-9, or such building shall be set back at least two feet per one foot of building height, whichever is greater.~~

[10] ~~(Reserved)~~

[11] ~~There shall be adequate provision for off-street parking as required under §322-62.~~

(d) (RESERVED)

(10) Commercial public recreation uses. The following requirements shall be met:

(a) Except for outdoor golf driving ranges and outdoor miniature golf ranges, all such uses shall be within a permanent structure and shall not be permitted except as an accessory use to an indoor operation, and the area for such outdoor activity shall not exceed the area of the principal building, shall not be permitted within the required front yards and shall be screened with plant material.

(b) Except for bollard and bunker lighting, outdoor lighting fixtures shall have opaque shields on the tops and sides and shall be directed straight down and shall not exceed 18 feet in height.

(c) If the proposed use is a skating rink, the following requirements shall apply:

[1] The use of toxic or explosive chemicals (such as ammonia) as a refrigerant shall be strictly regulated and safeguards directed by the Fire Inspector.

[2] There shall be adequate muffling of the noises resulting from the operation of refrigeration units.

[3] For a standard-size rink with minimum dimensions of 85 feet by 200 feet and facilities for regulation hockey, the proposed use shall be located on a site of not less than five acres of land.

(d) If the proposed use is a rifle range, the following requirements shall apply:

[1] Structural plans and specifications shall bear the certification of an acoustical engineer verifying that the proposed structure will achieve the required sound transmission loss pursuant to Chapter 207, Noise, of the Town of Smithtown Code.

[2] The proposed structure or portion of the structure intended to be used for the discharge of firearms shall be constructed of impermeable materials, the ceiling of which shall be located at least four feet below ground level, as approved by the Building Director for such use.

[3] The storage of ammunition or explosives shall be prohibited.

(e) Outdoor golf driving ranges and outdoor miniature golf ranges shall also be subject to the following additional requirements:

[1] The site shall be at least 500 feet from any residence.

[2] The minimum required lot area shall be 12 acres for driving ranges and 60,000 square feet for miniature golf.

[3] Except for fences, signs and driveways, all structures and areas of organized activity shall be set back at least 50 feet from any right-of-way.

[4] The minimum planting area of the site shall be 85% for driving ranges and 20% for miniature golf.

[5] On-site vegetation, landforms, open space and netting shall be provided to the extent necessary to prevent injury or damage on other premises and shall be indicated on a site plan submitted with the petition.

[6] Netting shall be set back from all lot lines at least three feet for every foot of height.

[7] No outdoor loudspeaker system shall be permitted.

(15) Concrete products manufacture. The following requirements shall be met:

(a) The site shall not be less than 10 acres in area; all other requirements of § 322-9B for Heavy Industrial District shall apply.

(b) The manufacture of products shall be confined to within a structure only, and the batching plant or unit shall be permanent installation on the site, unless the nature of the particular product warrants these requirements unfeasible, in which case the Board shall establish other appropriate standards.

(c) The outside storage of materials and finished products shall be part of a general plan submitted with this application.

(21) Hospital; nursing home; convalescent home; rest home; adult home or assisted living facility. The following requirements shall be met:

(a) The site shall not be less than five acres in area, with no less than 300 feet of street frontage on a public street. In calculating the site area, no portion of the site with a width of less than 150 feet shall be included.

(b) All principal and accessory buildings shall be set back from all land being used for residence or land zoned for residence at least 100 feet.

- (c) The total building area shall not exceed 25% of the total lot area.
- (d) The maximum building height shall be as stipulated in the Table of dimensional Regulations, §322-8C and §322-9C, or as modified in accordance with §322-14C.
- (26) Hotel; motel. The following requirements shall be met:
  - (a) There shall be a minimum of 1,800 square feet of site area for each guest room.
- (27) Bonus density for affordable housing units in retirement communities. The following requirements shall be met:
  - (a) The site shall comply with all provisions of this chapter as stated in Article VII, with the exception of §322-50C.
  - (b) The site shall have reasonable access to mass transit and local shopping facilities.
  - (c) The site shall not be within 500 feet of a Light Industry or Heavy Industry District.
  - (d) The shape of the property shall be of an appropriate dimension to accommodate this use.
  - (e) The site shall have frontage on state, county or Town arterial roads.
  - (f) Buildings on the proposed site shall not exceed two stories in height, measured from at least two corners of the building.
  - (g) The premises shall comply with §322-19B except that one manager's apartment per 50 bonus apartments or fraction thereof may be permitted in addition to the density otherwise yielded in accordance with §322-19B.
  - (h) The gross floor area shall not exceed 35% of the site area.
  - (i) At least 50% of the bonus units shall be set aside to be used by senior citizens whose total income is classified as "low income" by the standards set forth by either the United States Bureau of Census or the United States Department of Housing and Urban Development.
  - (j) At least 50% of the bonus units shall rent for an amount which is less than 30% of the total median income of low-income senior citizens as classified by the United States Bureau of Census or the United States Department of Housing and Urban Development.
  - (k) The applicant shall provide assurances in the form of a restrictive covenant or other forms of agreement which are approved by the Board of Appeals, which

demonstrate that these units will remain affordable to low-income senior citizens.

(28) Public utility. The following requirements shall be met:

- (a) All principal and accessory buildings or equipment, exclusive of transmission lines, shall be set back from all property lines at least 100 feet.
- (b) Permitted open storage or equipment areas shall be adequately fenced and screened.

#### ARTICLE XIV

#### SPECIAL EXCEPTIONS; AMENDMENTS; CHANGES OF ZONE

§322-94. Petition procedure; notice and hearing requirements; adoption and withdrawal; fees; standards for special exception uses.

- G. (8) On-site parking and truck loading space shall be adequate to accommodate the parking generated on site, but in no case less than the number required by the provisions of Article IX; and further, the layout of the spaces and driveways shall be convenient and conducive to safe operation.

**DELETE IN ITS ENTIRETY § 322-97 COMMERCIAL PUBLIC RECREATION USES AND REPLACE WITH THE FOLLOWING:**

§322-97. (RESERVED)

**DELETE IN ITS ENTIRETY § 322-98 CONCRETE PRODUCTS MANUFACTURER AND REPLACE WITH THE FOLLOWING:**

§322-98. (RESERVED)

**DELETE IN ITS ENTIRETY § 322-99 HOSPITAL; NURSING HOME; CONVALESCENT HOME; REST HOME; ADULT HOME OR ASSISTED LIVING FACILITY AND REPLACE WITH THE FOLLOWING:**

§322-99. (RESERVED)

**DELETE IN ITS ENTIRETY § 322-100 HOTEL; MOTEL AND REPLACE WITH THE FOLLOWING:**

§322-100. (RESERVED)

**DELETE IN ITS ENTIRETY § 322-101 BONUS DENSITY FOR AFFORDABLE HOUSING UNITS IN RETIREMENT COMMUNITIES AND REPLACE WITH THE FOLLOWING:**



§322-101. (RESERVED)

**DELETE IN ITS ENTIRETY § 322-102 PUBLIC UTILITY AND REPLACE WITH THE FOLLOWING:**

§322-102. (RESERVED)

**DELETE IN ITS ENTIRETY § 322-104 MINI STORAGE WAREHOUSES AND REPLACE WITH THE FOLLOWING:**

§322-104. (RESERVED)

§322-8.B. Table of Use Regulations.

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	Special		Residential							Business						Industrial			
	CF	Flood	R43	R21	R15	R10S	RM7	R6	PRD	RC	RMGA	PB	OB	SCB	NB	CB	WSI	LI	HI
<b>RESIDENTIAL USES</b>																			
One family dwelling	P	BA	P	P	P	P	P	-	-	-	-	P	P	-	P	P	-	-	-
Bonus density apartment	-	-	-	-	-	-	-	-	TBBA	-	-	-	-	-	-	-	-	-	-
<b>COMMUNITY FACILITY USES</b>																			
Hospital or nursing home	TBBA		TBBA	TBBA	TBBA	TBBA	TBBA	-	-	-	-	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	-
Golf course or country club of 50 acres or more	BA	BA	BA	BA	BA	BA	BA	-	-	-	-	-	-	-	-	-	P	P	P
Park, playground or nature preserve	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P
Public utility facility	TBBA	TB	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA	TBBA
Swimming or boat club	BA	BA	BA	BA	BA	-	-	-	BA	-	-	-	-	-	-	-	BA	BA	-
<b>BUSINESS USES</b>																			
Agriculture	P	P	P	P	P	P	P	-	P	-	-	P	P	P	P	P	P	P	P
Animal husbandry	BA	BA	BA	BA	-	-	-	-	-	-	-	-	-	-	-	-	BA	BA	-
Commercial public recreation	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	TBBA	TBBA	TBBA
Hotel, motel	-	-	-	-	-	-	-	-	-	-	-	-	-	-	TBBA	TBBA	TBBA	-	-
Mini storage warehouse	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	TBP	BA P	BA P	P
<b>INDUSTRIAL USES</b>																			
Concrete products manufacturer	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	TBBA
<b>ACCESSORY USES</b>																			
Christmas tree sales	-	P	-	-	-	-	-	-	-	-	-	-	-	P	P	P	P	P	P

AT THE AFOREMENTIONED TIME AND PLACE, a public hearing will be held and all interested persons shall be given an opportunity to be heard.

Dated: September 8, 2015

