

**VILLAGE OF POMONA  
LOCAL LAW NO. X OF THE YEAR 2021**

**A LOCAL LAW AMENDING CHAPTER 130, ZONING, TO NEWLY DEFINE AND CREATE NEW STANDARDS FOR NEIGHBORHOOD HOUSES OF WORSHIP, TO CLARIFY STANDARDS FOR RESIDENTIAL GATHERINGS AND COMMUNITY HOUSES OF WORSHIP, AND TO CLARIFY RELATED DEFINITIONS.**

**Be it enacted by the Village Board of Trustees of the Village of Pomona by authority of Article 7 of the Village Law and Article 2, Section 10 of the Municipal Home Rule Law, as follows:**

*(Note: Proposed insertions of language into the Code are indicated by underlining. Proposed deletions of language from the Code are indicated by strikeout symbols. All other language shown is to remain unchanged. The symbol “\* \* \* \* \*” indicates portions of the Code to remain unchanged, which are not shown here for brevity.)*

*Section 1: Legislative findings and intent. The Village Board of Trustees of the Village of Pomona hereby finds and declares:*

Whereas, the Zoning Code permits and establishes standards for accessory residential gatherings at single family homes, and for larger houses of worship on lots of three acres or more; and

Whereas, there is no intermediate category of neighborhood level houses of worship, allowable within existing residential neighborhoods and the Village Board has identified a need for such facilities; and

Whereas, in the Zoning Code, a review of existing language has found that definitions of lot size, building and lot coverage, floor area ratio, and gross and net lot area are found to be missing or deficient;

**BE IT RESOLVED**, to enact the following amendments to the Zoning Code Chapter 130 of the Village of Pomona.

*Section 2: Amend the following definitions found in Article II, Definitions,, §130-4, Terms Defined, as follows, inserting words shown as underlined, deleting words shown with a strikeout symbol, and inserting new definitions in alphabetical order:*

\* \* \* \* \*

**ACCESSORY BUILDING**

The term applied to a building, structure or use which is clearly incidental or subordinate to, and customarily in connection with, the principal building, structure or use and which is located on the same lot with the principal building, structure or use. Any accessory building or structure attached to a principal building or structure is deemed to be part of such principal building or structure in applying the bulk requirements to such building or structure.

~~A building subordinate to the main building on the lot and used for purposes customarily incidental to that of the main building. Where an "accessory building" is attached to the main building in a substantial manner, as by a wall or roof, such "accessory building" shall be considered part of the main building.~~

\* \* \* \* \*

#### **BUILDING COVERAGE**

That percentage of the ~~land-net lot~~ area covered by the combined building area of all buildings, excluding any buildings or structures located completely below ground.

\* \* \* \* \*

#### **FLOOR AREA, GROSS**

The total horizontal area of ~~all floors-story~~ of a building, measured from the exterior faces of exterior walls, or in the case of a common wall separating two buildings, from the center line of such common walls, ~~and including with headroom of 75 inches or more, including:~~

1. Basement space;
2. Attic space or other unfinished space, whether or not a floor has been laid;
3. Roofed ~~overed and uncovered~~ porches, breezeways, and carports; and
4. Garages; ~~balconies and raised platforms;~~

but excluding cornices, roof overhangs, gutters or chimneys projecting not more than three feet, uncovered decks or steps, and steps and terraces not more than three feet above the average adjacent ground elevation,.

#### **FLOOR AREA RATIO**

Gross floor area of all buildings on a lot divided by the net area of a lot area.

\* \* \* \* \*

#### **GROSS FLOOR AREA**

~~The total floor area of all residential floors of a building, including all areas with headroom of 75 inches or more.~~

\* \* \* \* \*

#### **GATHERINGS OF PERSONS, REGULARLY SCHEDULED NONCOMMERCIAL**

Noncommercial regularly scheduled large gatherings, meeting all of the following criteria:

- A. The occupancy of the gatherings shall be the lesser of: (i) 49 persons; or (ii) the number of persons determined by dividing the number of square feet of the portion of the residence so designated for such a gathering by 15 square feet per person. The requirement of no more than 49 occupants is the maximum permitted before the use category of "assembly" would be applicable under the New York State Uniform Fire Prevention and Building Code, as may be amended from time to time. The standard of 15 square feet per person is set forth in Table 1004.5 of said New York State Code, which is applicable to unconcentrated assembly without fixed seats.
- B. The designated area for such a gathering shall have a maximum floor area of 49% of the gross floor area of the one-family detached residence.
- C. Any use that exceeds any of the above criteria at any time shall not be considered a noncommercial regularly scheduled gathering. The Building Inspector shall

determine the appropriate use category based upon the requirements of this chapter.

\* \* \* \* \*

### **HOUSE OF WORSHIP, COMMUNITY**

A building or buildings with a combined gross floor area greater than 10,000 square feet whose principal use is intended primarily for the conduct of organized or regularly scheduled religious services.

### **HOUSE OF WORSHIP, NEIGHBORHOOD**

A building or ~~structure~~ buildings with a combined gross floor area of 10,000 square feet or less, commonly referred to as a church, synagogue or similar place of worship, whose principal use is intended primarily for the conduct of organized or regularly scheduled religious services.

### **IMPERVIOUS SURFACE**

Those surfaces which do not absorb stormwater. All buildings, decks, parking areas, driveways, roads, sidewalks, swimming pools and any areas in concrete, pavers, asphalt or packed stone shall be considered "impervious surfaces" within this definition. In addition, other areas determined by the Village Engineer to be impervious within the meaning of this definition will also be classed as "impervious surfaces."

\* \* \* \* \*

### **LOT AREA, GROSS**

The total horizontal area included within the boundaries of the lot, uncorrected or adjusted for legal encumbrances or surface conditions.

### **LOT AREA, NET**

The remaining lot area, once the sum of following parts of the subject lot, if present, are subtracted from the total horizontal area included within the boundaries of the lot:

1. Any land under a surface water body;
2. One quarter of any land which is defined as a freshwater wetland by the U.S. Army Corps of Engineers, the New York State Department of Environmental Conservation and/or Chapter 126 of this Code;
3. Any land within a one-hundred-year-frequency floodplain;
4. Any land within access, utility or drainage easements or rights-of-way, except for direct utility connections to principal or accessory buildings on the site.
5. Any land with unexcavated slopes over 35%; or
6. Twenty-five percent of any land with unexcavated slopes greater than 15% but less than 35%.

### **LOT COVERAGE**

That percentage of the ~~plot or net~~ lot area covered by impervious surfaces, buildings and structures that have foundations and are or can be roofed over. Open swimming pools shall not be considered a part of "lot coverage."

\* \* \* \* \*

*Section 3. Clarify standards for accessory residential gatherings by amending subdivisions G of Section 130-11 of the Code, inserting words shown as underlined, and deleting words shown with a strikeout symbol:*

**§ 130-11 Accessory uses.**

The following are permitted accessory uses in the R-40 District:

\* \* \* \* \*

- G. The conduct of noncommercial regularly scheduled gatherings of persons which are incidental to and secondary to the use of the premises as a single-family residence, provided such use complies with the requirements of the New York State Fire Prevention and Building Code relating to places of assembly and occupancy limitations, if applicable. The area of the single-family residence dedicated to hold such gatherings shall occupy 49% of the gross floor area of the single-family residence building or less. The Building Inspector and/or Fire Inspector, as the case may be, shall have authority to inspect the premises for compliance with all safety requirements of the State Fire Prevention and Building Code relating to the use. The use shall be conducted entirely within the single-family residence and shall not be permitted in a separate or accessory building on the lot.

*Section 4. Clarify standards for community houses of worship, and create new standards for neighborhood houses of worship, by amending subdivisions G of Section 130-10 of the Code, and adding a new subdivision H as follows, inserting words shown as underlined, and deleting words shown with a strikeout symbol:*

**§ 130-10 Special permit uses.**

The following uses are permitted in the R-40 District by special permit only, to be reviewed, approved, or disapproved by the board set forth in each subsection:

\* \* \* \* \*

- G. By the Board of Trustees: House-Community house of worship as defined in § 130-4 of this chapter, subject to special permit approval by the Village Board of Trustees and site plan approval by the Planning Board. In addition to all other requirements of this Code for special permit and site plan approval, the following standards and requirements shall apply:

- (1) The minimum lot area for a community house of worship shall be a net lot area of three acres.

~~(a) No portion of any land under water shall be counted toward net lot area. Not more than 1/4 of any land which is defined as wetland by the U.S. Army Corps of Engineers, the New York State Department of Environmental Conservation and/or Chapter 126 of this Code or which is within a one hundred year frequency floodplain or within access, utility or drainage easements or rights of way shall be counted toward net lot area.~~

~~(b) No portion of any land with unexcavated slopes over 35% shall be counted toward net lot~~

~~area. Not more than 25% of any land with unexcavated slopes greater than 15% but less than 35% shall be counted toward net lot area.~~

- (2) The use shall have a minimum of 100 feet of frontage on and access to a public road.
- (3) The proposed structure meets all state requirements for a place of public assembly, including the Fire Prevention and Building Code.
- (4) Adequate off-street parking on the same lot as the community house of worship shall be provided. A minimum of one parking space for every 200 square feet of ~~floor space~~gross floor area shall be required. The Planning Board may waive not more than 25% of the required number of parking spaces if the Board determines that such spaces are not needed based on the parking demands of the proposed use. The burden shall be on the applicant to prove that such spaces are not needed. Concurrent with its issuance of a special permit, the Village Board of Trustees may prohibit on-street parking on one side of the frontage street of the community house of worship within 750 feet of its main entrance, to ensure adequate room for passage of emergency vehicles, during times when on-street parking may occur.
- (5) All buildings, structures and other uses, including driveways and parking areas, shall be set back a minimum of 125 feet from all property lines. Such setback area shall include a buffer screening area of at least 35 feet which, in the judgment of the Planning Board, will be adequate to screen the use from adjoining properties. The buffer area may include trees, bushes, fences, walls, berms or any combination of the aforesaid, to be determined by the Planning Board.
- (6) The total building coverage shall not exceed 10% of the net lot area. The total coverage of impervious surfaces ~~(which includes all buildings, structures, parking areas, driveways, sidewalks and other areas covered in concrete, asphalt or packed stone)~~ shall not exceed 25% of the net lot area. The maximum floor area ratio shall be 0.30.
- (7) The sources of exterior lighting shall be so shielded so that ~~they~~ luminaires are not visible beyond the boundaries of the lot on which they are located. The maximum illumination level at property lines shall be 0.1 footcandles. No outdoor public address systems shall be permitted.
- (8) Kitchen equipment designed for large scale food preparation shall be permitted, in compliance with all plumbing, electrical, fire, health and safety codes. Such equipment shall be utilized only for the preparation of foods to be served on site.
- (9) For community houses of worship, the principal use shall be the holding of regularly scheduled religious services. Accessory facilities and functions such as religious schools, social halls, administrative offices and indoor recreation facilities may be provided, so long as such facilities and functions shall be subordinate in aggregate to the size and function of the community house of worship. No building permit or certificate of occupancy shall be granted to such accessory use, building or structure until the building permit and certificate of occupancy for the principal use or building, respectively, have been granted. A dwelling

unit, as defined in this chapter, established at the site of a community house of worship shall not be considered as accessory to the community house of worship, but rather as an additional principal use.

(810) One monument sign, limited to eight square feet in area and set back a minimum of 10 feet from the lot line, may be permitted at the front entrance to the community house of worship. Illumination, if provided, shall be indirect, and the source of such light shall not be visible from adjoining properties or roads.

(911) The maximum height of buildings and structures shall be 35 feet measured from ground level in front of the building or structure. The height limitation shall not apply to church spires, belfries, cupolas, domes, monuments and similar appurtenances that are not used for human occupancy and do not extend more than 15 feet above the roof of the building or structure.

~~(1012)~~ Such other requirements as may be imposed by the Board of Trustees to mitigate traffic, safety hazards, drainage, aesthetics or other adverse impacts on adjacent properties or on the neighborhood.

H. By the Board of Trustees: Neighborhood house of worship as defined in § 130-4 of this chapter, subject to special permit approval by the Village Board of Trustees and site plan approval by the Planning Board. In addition to all other requirements of this Code for site plan approval, the following standards and requirements shall apply:

(1) The minimum lot area for a neighborhood house of worship shall be a net lot area of 32,670 square feet or 0.75 acres.

(2) The use shall have a minimum of 100 feet of frontage on and access to a public road.

(3) The proposed structure meets all state requirements for a place of public assembly, including the New York State Uniform Fire Prevention and Building Code.

(4) Adequate off-street parking on the same lot as the house of worship shall be provided. A minimum of one parking space for every 200 square feet of gross floor area shall be required. The Planning Board may waive not more than 50% of the required number of parking spaces if the Board determines that such spaces are not needed based on the parking demands of the proposed use. The burden shall be on the applicant to prove that such spaces are not needed. Concurrent with its issuance of a special permit, the Village Board of Trustees may prohibit on-street parking on one side of the frontage street of the neighborhood house of worship within 750 feet of its main entrance, to ensure adequate room for passage of emergency vehicles, during times when on-street parking may occur.

(5) All buildings and structures shall be set back a minimum of 25 feet from all property lines. Other uses outside of buildings, including driveways and parking areas shall be set back a minimum of 10 feet from all property lines, except as necessary to access the street. Such setback area shall include a buffer screening area of at least 5 feet in width which, in the



judgment of the Planning Board, will be adequate to screen the use from adjoining properties. The buffer area may include trees, bushes, fences, walls, berms or any combination of the aforesaid, to be determined by the Planning Board.

- (6) The total building coverage shall not exceed 15% of the net lot area. The total coverage of impervious surfaces (which includes all buildings, structures, parking areas, driveways, sidewalks and other areas covered in concrete, asphalt or packed stone) shall not exceed 50% of the net lot area. . The maximum floor area ratio shall be 0.25.
- (7) The sources of exterior lighting shall be so shielded so that luminaires are not visible beyond the boundaries of the lot on which they are located. The maximum illumination level at property lines shall be 0.1 footcandles. No outdoor public address systems shall be permitted.
- (8) No cooking facilities will be permitted, other than warming kitchen equipment for use by the clergy and/or congregants of the neighborhood house of worship and any kitchen equipment for exclusive use of residents of a residential dwelling unit. No kitchen equipment designed for large scale food preparation shall be permitted.
- (9) For neighborhood houses of worship, the principal use shall be the holding of regularly scheduled religious services. Accessory uses such as classrooms, social halls, administrative offices, baths, gymnasiums and/or indoor recreation facilities may be provided, so long as such accessory uses in their aggregate shall be subordinate to the size and function of the neighborhood house of worship. No building permit or certificate of occupancy shall be granted to such accessory use, building or structure until the building permit and certificate of occupancy for the principal use or building, respectively, have been granted. A dwelling unit, as defined in this chapter, established at the site of a neighborhood house of worship shall not be considered as accessory to the neighborhood house of worship, but rather as an additional principal use.
- (10) One monument sign, limited to eight square feet in area and set back a minimum of 10 feet from the lot line, may be permitted at the front entrance to the house of worship. Illumination, if provided, shall be indirect, and the source of such light shall not be visible from adjoining properties or roads.
- (11) The maximum height of buildings and structures shall be 35 feet measured from ground level in front of the building or structure. The height limitation shall not apply to church spires, belfries, cupolas, domes, monuments and similar appurtenances that are not used for human occupancy and do not extend more than 15 feet above the roof of the building or structure.
- (12) Such other requirements as may be imposed by the Board of Trustees to mitigate traffic, safety hazards, drainage, aesthetics or other adverse impacts on adjacent properties or on the neighborhood.

*Section 4. This local law shall take effect immediately.*