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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

UNITED STATES OF AMERICA,

Plaintiff,

-v-

No. 20 Civ. 10121 (NSR) (AEK)

VILLAGE OF AIRMONT,

Defendant.

MEMO ENDORSED

CONSENT DECREE

This Consent Decree is entered into between plaintiff the United States of America (the “Government”) and defendant the Village of Airmont (“Airmont” or the “Village,” and collectively, the “Parties”).

WHEREAS, on December 2, 2020, the Government brought the above-captioned lawsuit (the “Action”), alleging *inter alia* that Airmont’s 2018 enactment of certain amendments to its zoning code (the “2018 amendments”) violates the Religious Land Use and Institutionalized Persons Act (“RLUIPA”), 42 U.S.C. § 2000cc *et seq.*;

WHEREAS, on March 15, 2021, the Court entered a Consent Order of Preliminary Injunction (the “Consent Injunction”) that, among other things, enjoined Airmont from enforcing, implementing, or otherwise giving force to the 2018 amendments;

WHEREAS, on September 1, 2021, the Village filed a motion to dismiss the Action dated June 22, 2021, for lack of subject matter jurisdiction under Rule 12(b)(1) of the Federal Rules of Civil Procedure;

WHEREAS, Airmont denies the allegations in the Government’s complaint and any and all liability under RLUIPA;

WHEREAS, entry of the Consent Decree does not constitute an admission by the Village of any of the allegations contained in the Government's complaint;

WHEREAS, the Government and the Village wish to settle this action to avoid protracted and unnecessary litigation, and to conserve taxpayer and judicial resources, and so agree to entry of this Consent Decree;

NOW, THEREFORE, without the adjudication, admission, finding, holding, or determination on the merits of either Party's case, and with agreement of the Parties, IT IS HEREBY ORDERED, ADJUDGED, and DECREED as follows:

I. DEFINITIONS

1. For purposes of this Consent Decree, "Airmont" or "the Village" shall mean Defendant the Village of Airmont or any of its agents, employees, representatives, elected officials, or any other individual acting or purporting to act on its behalf.

II. JURISDICTION

2. This Court has jurisdiction over the Parties and the subject matter of this action, and the Court has authority to enforce and administer the terms of this Consent Decree.

3. This Consent Decree shall take effect immediately upon its entry by the Court. The term of this Decree shall be five (5) years from the date of entry. Expiration of this Consent Decree shall not relieve the Village of any obligation otherwise imposed by law. The United States may move the Court to extend the duration of this Consent Decree for good cause shown.

III. GENERAL NONDISCRIMINATION PROVISIONS

4. The Village shall not impose or implement any land use regulation in a manner that imposes a substantial burden on the religious exercise of any person, including a religious assembly or institution, unless the Village can demonstrate that imposition of that burden

further a compelling governmental interest and is the least restrictive means of furthering that compelling governmental interest.

5. The Village shall not impose or implement any land use regulation in a manner that treats a religious assembly or institution on less than equal terms with a nonreligious assembly or institution.

6. The Village shall not impose or implement a land use regulation that discriminates against any assembly or institution on the basis of religion or religious denomination.

7. The Village shall not impose or implement a land use regulation that unreasonably limits religious assemblies, institutions, or structures within the Village.

8. The Village shall not coerce, intimidate, threaten, interfere with or retaliate against any person in the exercise or enjoyment of, or on account of that person having exercised or enjoyed, or on account of that person having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by RLUIPA.

9. The terms and provisions of Section III shall be governed by, and interpreted consistent with, the statutory and case law that controls at the time the controversy arises, i.e., the time of interpretation.

IV. CONSENT INJUNCTION SUPERSEDED

10. The terms of the Consent Injunction are hereby superseded by the provisions of this Consent Decree including exhibits.

11. The Village remains and shall continue to be enjoined from enforcing, implementing, or otherwise giving force to § 210-12.1 of the Airmont Zoning Code, as amended on September 4, 2018, by L.L. No. 16-2018.

12. The Village remains and shall continue to be obligated to enforce, implement, and otherwise give force to “Residential Place of Worship” (“RPW”) as a separately defined land use category and a use permitted by right in each of the residential districts recognized under the Airmont Zoning Code.

V. PRESENT AND FUTURE AMENDMENT OF THE ZONING CODE

13. Notwithstanding any provisions of the Airmont Code to the contrary, the Village shall take all necessary measures to enact with legal force without any undue delay the amendments to its zoning code contained in Exhibit A (the “Zoning Amendments”) and to comply with all other provisions of this Consent Decree, which constitutes a judicial order entered in civil enforcement proceedings as described in the New York Compilation of Rules and Regulations (“NYCRR”), Title 6, Section 617.5(c)(35). In addition to the requirement that the Village must take any other action within its lawful power and discretion to ensure the prompt enactment into legal force of the Zoning Amendments not specifically enumerated herein, the Village shall be specifically required to:

- a. distribute the Zoning Amendments to all members of the Village Board no later than seven (7) days from entry of this Consent Decree;
- b. hold a meeting of the Village Board no later than fourteen (14) days from entry of this Consent Decree, at which meeting the Board shall (i) formally introduce the Zoning Amendments; (ii) make a formal determination that the enactment of the Zoning Amendments constitutes a “Type II action” for purposes of New York State Environmental Quality Review pursuant to 6 NYCRR § 617.5(c)(35); and (iii) formally refer the enactment of the Zoning Amendments to the applicable county planning agency pursuant to New York

General Municipal Law (“GML”) § 239-m(2) (the “referral”); (iv) schedule a public hearing date on the Zoning Enactments and publish notice of such public hearing in accordance with Municipal Home Rule Law § 20.

- c. include with any other applicable and necessary materials as part of the referral to the county planning agency described in subsection b(iii) above a copy of this Consent Decree and any exhibits and a written explanation that enactment of the Zoning Amendments (1) is mandated by judicial order and (2) should be designated by agreement as not subject to referral under GML § 239-m(3)(c) or should be given a recommendation of approval under GML § 239-m(4);
- d. open the public hearing regarding the Zoning Amendments on the scheduled date and, after hearing all interested parties, close such public hearing.

Following the close of the public hearing, the Village shall, regardless of public comments received regarding such local law, effectuate final enactment of the Zoning Amendments as a local law pursuant to the requirements of New York Municipal Home Rule Law § 20(4), by whichever date among the following is earliest in time: (1) within fourteen (14) days of receipt of notification from the applicable county planning agency that enactment of the Zoning Amendments is not subject to referral under GML § 239-m(3)(c); (2) within fourteen (14) days of receipt of notification of the applicable county planning agency’s recommendations, subject to consultation with the Government as set forth in paragraph (d) above in the event that the county planning agency recommends modification or disapproval, as to the enactment

of the Zoning Amendments; or (3) in the event that the county planning agency fails to issue its recommendations within the thirty (30) day time period required by GML § 239-m(4)(b), within fourteen (14) days of the deadline to provide a recommendation set forth in GML § 239-m(4)(b).

14. The Village shall not be deemed to be in violation of this Consent Order in the event that the county planning agency declines to enter into such agreement under GML 239-m(3)(c) as contemplated in Paragraph 13(c) or makes recommendations that require an extraordinary vote under GML § 139-m(5). If the county planning agency makes such recommendations of modification or disapproval requiring an extraordinary vote, the Village shall confer with the Government in order to determine if the Village shall proceed to override such recommendation with the required vote or modify the code to incorporate any such recommendations.

15. In the event that the county planning agency submits recommendations of modification or disapproval to the Village within two or more days prior to the scheduled date of enactment of the Zoning Amendments, the provisions of Paragraph 14 shall apply and the Government and Village shall confer with respect to such county planning recommendations.

16. The Government's challenge to Airmont's zoning code in existence at the commencement of this Action is dismissed, provided, however, that the United States may request at any time that this Action be reinstated to the Court's active docket should the Government determine that the Village has failed to make good-faith efforts to comply with the terms and provisions of this Consent Decree.

17. During the term of this Consent Decree, the Village is hereby prohibited from enacting any amendment or modification to, including the insertion of any additional text in Part

II, Chapter 210, Sections 210-7 and 210-12.1 of the Airmont Code, and any other section of the Airmont Code amended or modified as a result of this Consent Decree, without first obtaining the express written consent of the United States, which the Government may provide or decline to provide at its sole discretion. In the event the Government declines to provide its consent or fails to respond to the Village's request within thirty (30) days, the Village may apply to this Court to seek appropriate relief.

18. During the term of this Consent Decree, the Village shall notify the United States in writing within fourteen (14) days of receipt by the Village of any and all proposed amendments to the Village zoning code, if the Village intends to consider such a proposal for passage. The notification shall include copies of all such proposed amendments. Should the Government determine that any such proposed amendment has the intent and/or effect of infringing on religious exercise in violation of RLUIPA, the Government may notify the Village of its determination. The Parties shall confer in good faith about any dispute related to the Government's determination in the sixty (60) day period from notification of the Government's determination. If after this 60-day period, the Village confirms that it will still consider such proposed amendments, the Government may, at any time thereafter, request that this Action be reinstated to the Court's active docket.

VI. NOTICE TO THE PUBLIC

19. Within 21 days after entry of this Consent Decree, the Village shall notify the public of this Consent Decree by (1) publishing the text of the Consent Decree including exhibits on the homepage of the Village's website for no fewer than 180 days, (2) publishing the text of the Consent Decree including exhibits in both the print and online editions of the Village's designated official newspaper(s), and (3) posting the text of the Consent Decree and exhibits for

no fewer than 180 days in the Village Clerk's Office in a prominent place where it can be seen and read by members of the public.

VII. NOTICE TO OFFICIALS

20. Within 21 days after entry of this Consent Decree, the Village shall provide a copy of this Consent Decree including exhibits to all Village employees, officers, and elected officials, including but not limited to the Mayor of Airmont, each member of the Village Board of Trustees, the Village Building Inspector, the Village Clerk, and the Village Planning and Zoning Board Clerk.

21. Within 21 days after entry of this Consent Decree, the Village shall provide a copy of this Consent Decree including exhibits to all any other individual that contracts with Airmont in connection with reviewing, adjudicating, or opining on any land use application.

VIII. RECORD-KEEPING AND OTHER NOTICE REQUIREMENTS

22. During the term of the Consent Decree, the Village shall maintain copies of all written applications that seek the Village's consideration or approval of any land use for religious purposes for the term of this Consent Decree. Such applications include, without limitation, applications for conditional use permits, variances, building permits, special permits, special use permits, renewals of permits, special exceptions, or zone text amendments.

23. During the term of the Consent Decree, the Village shall notify the United States in writing within every three (3) months from the date of entry of the Consent Decree of the occurrence of each instance during the preceding three-month period in which:

- a. The Village has denied or constructively denied any application related to the operation of a RPW described in Section 210-12.1 of the Airmont Code as amended by the terms of this Consent Decree and Exhibit A; or
- b. The Village has issued any notice of a criminal violation under any of the Zoning Code provisions applicable to RPWs.

24. During the term of the Consent Decree, the Village shall maintain copies of all written complaints it receives concerning any alleged restriction or prohibition by the Village of, or interference with, the use of land in the Village for religious purposes. The Village shall also notify the United States in writing within every three (3) months from the date of entry of the Consent Decree of each written complaint described in this Paragraph that Airmont has received in the preceding three-month period.

IX. INSPECTION OF RECORDS

25. During the term of the Consent Decree, upon reasonable notice by counsel for the United States to counsel for the Village, the Village shall permit representatives of the United States to inspect and copy all records of the Village related to the regulation of residential and freestanding places of worship under the Airmont Code and to the adjudication of related land use applications by Village officials.

X. ENFORCEMENT

26. The Court shall retain jurisdiction for the duration of the Consent Decree to enforce the terms of the Decree and to resolve any disputes arising under the Consent Decree, after which time the case shall be dismissed with prejudice.

27. The parties shall use their best efforts to effectuate the purposes of the Consent Decree and to resolve informally any differences regarding interpretation of and compliance with the Consent Decree prior to bringing any dispute to the Court's attention.

28. Subject to the above paragraph(s) requiring initial, informal resolution of differences, in the event of a failure by the Village to perform in a timely manner any act required by the Consent Decree or otherwise to act in conformance with any provision thereof, the United States may move the Court at any time to impose any remedy authorized at law or

equity, including, but not limited to, an order requiring performance of such act or deeming such act to have been performed, and costs and reasonable attorneys' fees which may have been occasioned by the violation or failure to perform.

XI. INTEGRATION AND MODIFICATION

29. The Parties understand and agree that this Consent Decree contains the entire agreement between them, and that no statements, representations, promises, agreements, or negotiations, oral or otherwise, between the parties of their counsel that are not included herein shall be of any force or effect. This Consent Decree may be modified only in writing and with the written consent of the Parties and approval of the Court.

XII. COSTS AND ATTORNEY'S FEES

30. Each Party shall bear its own costs and attorney's fees in this Action.

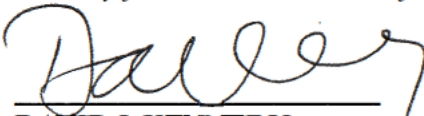
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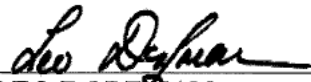
Dated: September 29, 2023
New York, New York

Dated: September 28, 2023
Carle Place, New York

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The Clerk of Court is kindly directed to close the case.

Dated: October 19, 2023
White Plains, NY

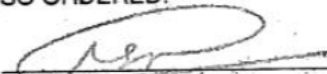
SO ORDERED:

HON. NELSON S. ROMAN
UNITED STATES DISTRICT JUDGE

EXHIBIT A TO CONSENT DECREE

Pursuant to the Consent Decree entered in the above-referenced matter to which this exhibit is appended, the Village of Airmont is judicially ordered and required to take all necessary measures to enact without any undue delay the following amendments to its Zoning Code, Chapter 210 of the Village of Airmont Code.

LOCAL LAW X-2022 “AMENDMENTS TO THE VILLAGE OF AIRMONT ZONING CODE TO REGULATE RESIDENTIAL PLACES OF ASSEMBLY, RESIDENTIAL PLACES OF WORSHIP, AND FREESTANDING PLACES OF WORSHIP IN ACCORDANCE WITH NEWLY ESTABLISHED USE REGULATIONS AND SITE PLAN APPROVAL PROCESSES.”

A LOCAL LAW to amend Chapter 210 “Zoning” to permit either as-of-right or by special permit Residential Places of Worship and Freestanding Places of Worship in certain zoning districts and in accordance with certain standards in the Village of Airmont; to add standards to Chapter 210 Article III related to these uses; to amend the schedule of Use Tables to allow for these uses in residential zoning districts; and to establish supplementary regulation standards and a new approval process in Chapter 210 for Residential Places of Assembly, Residential Places of Worship, and Freestanding Places of Worship.

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

Section 1. Legislative Intent. The Village Board finds that in order to promote individual constitutional rights to freedom of assembly and free exercise of religion and to protect the health, safety, and general welfare of Village of Airmont residents, Chapter 210 “Zoning” requires amendments to permit Residential Places of Assembly, Residential Places of Worship, and Freestanding Places of Worship either as-of-right or by special permit in certain zoning districts and in accordance with certain standards.

Section 2. Section 210-3 (“Purposes.”)

Section 210-3 (G) is hereby deleted and replaced with the following:

“Nothing in this Zoning Code of the Village of Airmont, New York, shall be construed or interpreted in any manner so as to hinder, prevent, or prohibit individuals from peacefully assembling in residential dwellings solely for the purposes of individual or group prayer. Residential dwellings shall include the residential portions of a Residential Place of Worship or Assembly as defined by 210-174 of the Zoning Code of the Village of Airmont, New York.”

Section 3. Section 210-7 (“General district regulations.”)

Section 210-7(A) shall be amended to read as follows:

“No building shall be erected, altered, constructed, reconstructed, enlarged, changed or otherwise utilized contrary to, in violation of or otherwise inconsistent with any federal, state, county, town or other authority’s rule, regulation, custom, law or practice. It is the intention of this provision to have any such federal, state, county, town or other authorities supersede this code to the extent that such rule, regulation, custom, law or practice is more protective of the health, safety and welfare of all residents in the Village of Airmont.”

Section 210-7(J) shall be inserted after Section 210-7(I) to read as follows:

“Any time frame set forth in this Chapter pertaining to the review and/or processing of any application before any Village board or official may be reasonably extended by either the applicant or the applicable Village board or official in the event of religious observance, or public health or weather emergency. Any such time frames may be extended in any event by mutual agreement of the applicant and the applicable Village board or official. Notwithstanding the foregoing, no such extensions shall be permitted where said time frame is otherwise mandated or superseded by any other applicable law, including, but not limited to, New York State Village Law.”

Section 4. Section 210-12.1 (“Residential Places of Assembly.”)

Section 210-12.1 shall be repealed and replaced with the following:

§ 210-12.1 Residential Places of Assembly.

- A. Legislative intent. In order to promote individual constitutional rights to freedom of assembly and the Village of Airmont’s interest in protecting the health, safety, and welfare of its citizens, the Village Board has determined that the current Zoning Code should be amended to establish Residential Places of Assembly as an as-of-right use accessory to a one-family detached residence in any residential district in the Village of Airmont.
- B. Regulations.
 - (1) The establishment of a Residential Place of Assembly shall be subject to the requirements of Article IX, Site Development Plan Review, and Chapter 164, Site Development Plan Regulations, of the Village Code.
 - (2) Issues regarding lighting, signage and design shall be reviewed by the Architectural Review Committee pursuant to § 5-10, Article VIII, Signs, § 164-9, Lighting systems, and § 210-87 (c), Outdoor Lighting Standards, of the Village Code, in order to ensure that all structures shall be compatible with the character of the surrounding neighborhood.
 - (3) The establishment of a Residential Place of Assembly as an accessory use to a one-family detached residence is permitted, provided it is located in a conforming structure

on a conforming lot containing a one-family detached residence or part of a new one-family detached residence and is no greater than 1,400 square feet or 30% of the gross floor area of the residence, whichever is less.

- (4) No more than 49 occupants are permitted in the Residential Place of Assembly. This is the maximum occupancy permitted for residential occupancy (Group R) under the New York State Uniform Fire Prevention and Building Code, as may be amended from time to time. Occupancy beyond these standards would require construction in accordance with standards for assembly occupancy (Group A). All applications for Residential Place of Assembly must meet the standard of 15 square feet per person as set forth in Table 1004.5 of said New York State Code, which is applicable to unconcentrated assembly without fixed seats.
- (5) In addition to off-street parking required for the residence, additional off-street parking for any Residential Place of Assembly shall be provided at the rate of one parking space per 200 square feet of floor area or one per three seats' capacity, whichever is greater.
- (6) Any single-family residence containing a Residential Place of Assembly shall comply with the area requirements applicable to a single-family residence in the district in which such building or structure is situated. Where an existing residential structure is considered noncomplying to bulk requirements, the use (without enlargement) of a portion of the existing residential structure for a Residential Place of Assembly shall not be deemed to increase the degree of nonconformance nor to create any new nonconformance, provided that where the Residential Place of Assembly is located on a lot noncomplying with the minimum lot area, the maximum size of the Residential Place of Assembly shall be reduced by the same at the same proportion as the lot area noncompliance. By means of example, if a lot of 10,000 square feet is located in a district requiring a 30,000 square feet minimum lot size, the maximum size of the Residential Place of Worship cannot exceed 1/3 of 1,400 square feet.
- (7) Hours of Operation. No regularly scheduled assembly shall take place between the hours of 12:00 midnight and 6:00 a.m. For the purpose of this provision, regularly scheduled shall mean occurring in greater frequency than three times per calendar year.

C. Application.

- (1) An application for a Residential Place of Assembly as defined by this Code shall be submitted for Site Plan approval. If the application is complete, the application shall be referred to the CDRC and the Planning Board for review and approval in accordance with Article IX, Site Development Plan Review.

Section 5. Section 210-12.2 (“Neighborhood places of worship.”)

Section 210-12.2 shall be repealed and replaced with the following:

§ 210-12.2 Residential Places of Worship.

- A. Legislative intent. The Board of Trustees of the Village of Airmont finds and determines that in order to promote individual constitutional rights to freedom of religion, freedom of assembly and the protection of the health, safety and welfare of its citizens, the Village Board has established Residential Places of Worship as a use permitted as-of-right as an accessory to a one-family detached residence in any residential zoning district in the Village of Airmont, subject to the requirements of this section. Residential Places of Worship are not intended to permit commercial uses or schools of public, special or religious instruction. The Board of Trustees further finds that the presence of pedestrians walking to and from religious services at a Residential Place of Worship shall not in and of itself constitute a change in the residential character of the neighborhood.
- B. Regulations.
- (1) Submission requirements. The establishment of a Residential Place of Worship shall be subject to the requirements of Article IX, Site Development Plan Review, and Chapter 164, Site Development Plan Regulations, of the Village Code, except that the following requirements in Chapter 164 are modified with respect to applications for Residential Places of Worship as follows:
- (a) The requirement in § 164-7(B)(1)(h) that the site plan must show the approximate location of existing structures on adjacent properties within 500 feet of the perimeter of the site is modified to require that the plan show the approximate location of existing structures on adjacent properties within 100 feet of the perimeter of the site.
 - (b) The requirement in § 164-7(B)(1)(s) that the site plan show types of materials proposed to be used on the site shall not be interpreted to require information that is not required for a building permit application.
 - (c) The requirement in § 164-7(B)(2) of a Grading, Drainage, and Utilities Plan Sheet shall apply only if the application will involve changes to grading, drainage, and/or utilities.
 - (d) Sections 164-8 and 164-9 relating to landscaping and lighting systems shall not apply. The requirement in § 164-7(B)(3) of a Landscaping and Lighting Plan Sheet shall not apply. Instead, the site plan shall show how the application complies with applicable § 210-87(C), Outdoor Lighting Standards, of the Village Code.
 - (e) The requirement in § 164-7(B)(4) of profile and detail plan sheets for roads, driveways, and utilities shall not apply unless such information is necessary to obtain a building permit.
 - (f) The parking and loading requirements in Chapter 164-10 shall not apply. Only

the parking requirements in § 210-12.2(B)(10) shall apply.

- (2) Signage and Structural Design. All applicable requirements of § 5-10 (Architectural Review Committee – Procedure) of the Village Code, and Article VIII (Signs), of this Chapter, shall apply, except as otherwise excepted below in Subsection C.
- (3) Use. The establishment of a Residential Place of Worship as an accessory use to a one-family detached residence is permitted, provided it is located in a conforming structure on a conforming lot. Any single-family detached residence containing a Residential Place of Worship shall comply with the bulk requirements applicable to a single-family detached residence in the district in which such building or structure is situated. Where an existing residential structure is considered noncomplying to bulk requirements, the use (without enlargement) of a portion of the existing residential structure for a Residential Place of Worship shall not be deemed to increase the degree of nonconformance nor to create any new non-conformance, provided that the size of such Residential Place of Worship does not exceed the standards set forth in § 210-12-2(B)(5).
- (4) Accessory uses to a Residential Place of Worship.
 - (a) No space within a Residential Place of Worship may be rented out for purposes not reasonably related to the practice of religion or for any purposes that would pose a clear and unambiguous risk to the health, safety and general welfare of the community.
 - (b) Outdoor areas of the property may be used for any purpose consistent with the residential zoning of the site. Temporary trailers for religious purposes shall be permitted subject to § 210-26.
 - (c) Kitchens shall be permitted as part of the area devoted to the Residential Place of Worship for purposes reasonably related to the practice of religion and not for commercial purposes or to support the use of the residence as a catering facility. Requirements for installing commercial kitchen equipment, such as a ventilated hood with a fire suppression system, shall meet all requirements of the State Uniform Fire Code and all other applicable State laws.
 - (d) Social rooms and/or baths reasonably related to the practice of religion may be provided as part of the area devoted to the Residential Place of Worship so long as such facilities and functions shall be subordinate in the aggregate to the size and function of the Residential Place of Worship.
 - (e) Classrooms for religious instruction may be provided as part of the area devoted to the Residential Place of Worship, but full-time public or private elementary, secondary, or post-secondary schools shall be deemed as separate uses from a Residential Place of Worship and are not a permitted accessory use.
 - (f) Accessory uses such as catering facilities, large social halls, gymnasiums and/or indoor recreation facilities are not permitted in a Residential Place of Worship but may be provided in Freestanding Places of Worship.

(5) Size and Occupancy Limits.

- (a) The portion of the residence dedicated to a Residential Place of Worship shall not exceed 49% of the gross floor area of the residence. The occupancy of a Residential Place of Worship shall be in accordance with the maximum occupancy permitted for residential occupancy (Group R) under the New York State Uniform Fire Prevention and Building Code and Table 1004.5 of said New York State Code, which shall not exceed the lesser of: (i) 49 persons; or (ii) 15 persons per square feet in that portion of the structure utilized as a Residential Place of Worship. Occupancy beyond these standards would require construction in accordance with standards for assembly occupancy (Group A). 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. Once the occupancy of a Residential Place of Worship exceeds 49 people or the size exceeds 49% of the gross floor area of the residence, the principal use would be categorized as a Freestanding Place of Worship, and all required approvals for such use must be obtained.
- (b) The calculation of 49% of floor area for Residential Places of Worship shall be limited to spaces that are actively used for worship or dedicated to use by worshippers when attending services. This calculation excludes areas ordinarily used by residents of the home and their guests and not used for worship services or by worship service attendees, such as bathrooms, hallways, closets, studies, and offices that are separated from worship spaces.

(6) Dimensional Requirements and Visual Screening.

- (a) The site plan or building permit application shall demonstrate compliance with all applicable laws, statutes, rules and/or regulations, including, but not limited to the bulk regulations applicable to the underlying zoning district for a one-family detached residence, subject to the applicable provisions of Article XIII of this chapter (Nonconforming Uses, Buildings or Lots). The Planning Board shall waive the minimum side yard and rear yard setbacks and maximum development coverage of the underlying zoning district to accommodate off-street parking required by this section to the extent that the applicant can demonstrate compliance with the requirements of § 210-12.2 (B)(7).
- (b) Parking areas must be screened from adjacent residences by landscaping, fencing, or a combination of both and shown on the site plan.
- (c) Setbacks for parking spaces and drives shall be a minimum of eight feet from all property lines to allow for required landscaping and fencing to screen views of parked cars.

- (7) The site plan or building permit shall comply with Article XIV (Stormwater Control) of this chapter to prevent impacts from increased stormwater runoff. All properties less than one acre that require a development coverage waiver under § 210.12.2(B)(6)(a) shall provide on-site stormwater management for the additional development coverage granted by the Planning Board.
- (8) All required fire safety features at any house of worship, such as panic door hardware, exit lighting, emergency lighting, pull fire alarms, and/or automatic sprinkler systems, shall be governed by New York State Building and Fire Codes, and/or Rockland County Department of Health regulations.
- (9) Hours of Operation. No regularly scheduled assembly shall take place between the hours of 12:00 midnight and 6:00 a.m. For the purpose of this provision, regularly scheduled shall mean occurring in greater frequency than 12 times per calendar year.
- (10) Parking. All applicable requirements of Article VII, Parking and Loading shall apply, including § 210-47. Parking shall be required as follows:
 - (a) In addition to the parking required for the residence to which the Residential Place of Worship is accessory, one parking space for every 60 square feet of sanctuary/assembly space, but no fewer than 10 parking spaces. Hallways, bathrooms, social rooms, classrooms, storage, and/or mikvah/bath space shall not be counted towards the parking requirements except where such ancillary uses are occupied at the same time as the sanctuary/assembly space.
 - (b) Parking must meet § 210-48, Location and size of parking spaces and § 210-55, Additional Requirements.
- (6) The plan shall demonstrate compliance with all applicable laws, statutes, rules and/or regulations, including, but not limited to, the New York State Building and Fire Codes, and the bulk regulations applicable to the underlying zoning district, subject to the applicable provisions of Article XIII of this chapter (Nonconforming Uses, Buildings or Lots).

C. Application process.

- (1) Any Residential Place of Worship that does not involve a parking area for more than 10 vehicles, or a cumulative expansion of existing structures of more than 200 sq. ft. of floor area over a (5) five-year period shall not require site plan approval from the Planning Board and shall obtain a building permit from the Building Inspector.
 - (a) Any such building permit application shall be clearly labeled to inform the Building Inspector that the proposed use is for a residential place of worship and shall receive priority over non-religious applications.
 - (b) Any such building permit application shall not be subject to ARC review. However, only a single, externally illuminated building mounted sign of less than 10 square feet shall be permitted.

- (c) The building permit application must meet all zoning requirements and not require a variance from the Zoning Board of Appeals or a waiver under § 210-12.2(B)(6)(a). If one of these conditions exist, the Applicant will undertake the application process outlined under § 210-12.2(C)(2).
 - (d) A six-foot high opaque fence and a single row of the following plants planted no more than four feet on center shall be installed between any parking area or access driveway and adjacent residence to comply with the screening requirements of this chapter:
 - i. Easter Red Cedar
 - ii. Arborvitae (green giant only)
 - (e) In order for the Building Inspector to determine that the proposed residential place of worship is in compliance with the applicable provisions of the Zoning Code, any building permit application for a residential place of worship shall include a narrative summary providing the anticipated number of members, square footage of the residential and worship spaces, days and hours of services, and number of parking spaces provided.
 - (f) In the event that the building permit application is incomplete, the building inspector shall advise the applicant of outstanding materials and/or documentation within 14 days of receipt of the application.
 - (g) The Building Inspector shall issue a decision within 31 days of receipt of a complete building permit application for a residential place of worship.
 - (h) This subsection shall not apply to non-religious residential places of assembly, which shall be subject to the provisions of this section, including applicable site plan review procedures.
 - (i) Notwithstanding any other provision herein, in the event that the proposed internal alterations require any area variances, the applicant shall be referred by the Building Inspector to the Zoning Board of Appeals for same. The time periods prescribed herein will be tolled from the date of referral to the Zoning Board of Appeals to the filing of the decision of the Zoning Board of Appeals with the Village Clerk. Failure of the Zoning Board of Appeals to file its decision with the Village Clerk within 60 days of receipt of a complete variance application shall be deemed to be an approval of the application.
- (2) Any proposed Residential Place of Worship as defined by this Code that involves a parking area for more than 10 vehicles or a cumulative expansion of existing structures of more than 200 sq. ft. of floor area over a 5-year period shall submit an application to the Planning Board for Site Plan approval in accordance with all applicable requirements of Article IX, Site Development Plan Review and Chapter 164, Site Development Plan Regulations, of the Village Code. Requirements of Chapter 164 that do not apply to Residential Places of Worship are listed in Section 210-12.2B(1). The following review procedures apply:

- (a) Upon submission of an application to the Planning Board for a residential place of worship, the Planning and/or Building Department shall be provided a 45-day review period to determine whether the site plan application is complete and ready for consideration. In the event that the Planning and/or Building Department determines that the application is incomplete, within 10 days of the completion of the 45-day review period, the Planning and/or Building Department shall provide the applicant with a comprehensive written list of any missing or incomplete information or documentation.
- i. The initial application must state whether the applicant will be requesting, pursuant to § 210-74(A)(2), that the Planning Board vary or waive any applicable site plan review provisions or information. The Planning Board shall consider any such request at the first meeting at which the application is heard.
 - ii. In order to streamline the application review process, in lieu of the 45-day review period set forth herein, an applicant for an accessory residential place of worship may elect at the applicant's discretion, but is not required, to appear before the CDRC for technical review of the application. The applicant may withdraw voluntary submission to the CDRC at any time prior to the CDRC deeming the application complete and ready for consideration by the Planning Board and may elect to proceed solely before the Planning Board. Receipt by the Village of such withdrawal in writing shall trigger the 45-day review period set forth herein.
- (b) Upon a determination by either the Planning Board or the CDRC that the application is complete and ready for consideration by the Planning Board, the application shall be placed on the next available Planning Board agenda.
- i. An application for a Residential Place of Worship shall not be subject to the notice and public hearing requirements otherwise required for site plan review. The Planning Board may, at its discretion, accept and consider public comment on the application.
 - ii. The Planning Board shall approve the application, approve it with modifications or deny the application within 62 days of the first meeting at which the application is heard, except that if the application involves an action subject to SEQRA review (Type I or Unlisted Action), the 62 days period will begin to run upon the completion of SEQRA review or the first meeting, whichever is later. The time within which the Planning Board must render its decision may be extended by mutual consent of the applicant and the Board. If the Board does not take action at the expiration of the 62-day period or the time agreed upon by mutual consent, the Applicant may submit written notice to the Clerk of the

Planning Board that the 62-day period has expired and that further inaction by the Board shall result in a denial by default. At the first meeting held at least 14 days after the Board receives such written notice, the application will be deemed denied, unless the Board approves the completed application, approves it with modifications, or the parties mutually consent to a new date by which the Planning Board must render its decision. If no regularly or specially scheduled meeting is held within 30 days after the Board receives such written notice that the 62-day period has expired, the application shall be deemed denied.

- iii. In reviewing such applications, the Planning Board shall be permitted to impose conditions as authorized under New York State Village Law § 7-725-a, provided that such conditions shall not be inconsistent with laws applicable to religious uses.

Section 6. Section 210-12.3 (“Freestanding Places of Worship.”)

Section 210-12.3 shall be repealed and replaced with the following:

§ 210-12.3 Freestanding Places of Worship.

- A. Legislative intent. The Board of Trustees of the Village of Airmont finds and determines that in order to promote individual constitutional rights to freedom of religion, freedom of assembly and the protection of the health, safety and welfare of its citizens, the Village Board has established Freestanding Places of Worship as uses permitted as-of-right or by Special Permit in any residential district in the Village of Airmont, subject to the requirements of this section of the Zoning Code to allow for larger freestanding buildings that are not an accessory to a one-family detached residence. Freestanding Places of Worship are not intended to permit commercial uses or schools of public, special or religious instruction. It is further the intent of this section that the presence of pedestrians walking to and from religious services at a Freestanding Place of Worship shall not in and of itself constitute a change in the residential character of the neighborhood.
- B. Regulations.
 - (1) Submission requirements.
 - (a) The establishment of a Freestanding Place of Worship shall be subject to the requirements of Article IX, Site Development Plan Review in all zoning districts.
 - (b) Freestanding Places of Worship that are under 10,000 sq. ft in all residential zoning districts are permitted as-of-right.
 - (c) Freestanding Places of Worship equal to or over 10,000 sq. ft in all residential zoning districts shall be subject to the requirements of Articles XI, Special Use

Permit Approval, and § 210-97, Special Permit Use Standards General Conditions.

- (d) Freestanding Places of Worship in all non-residential zoning districts shall be subject to the requirements of Articles XI, Special Use Permit Approval, and § 210-97, Special Permit Use Standards General Conditions.
- (2) The establishment of a Freestanding Place of Worship shall be subject to the requirements of Chapter 164, Site Development Plan Regulations, of the Village Code except that the following requirements in Chapter 164 are modified with respect to applications for Freestanding Places of Worship as follows:
- (a) The requirement in § 164-7(B)(1)(h) that the site plan must show the approximate location of existing structures on adjacent properties within 500 feet of the perimeter of the site is modified to require that the plan show the approximate location of existing structures on adjacent properties within 100 feet of the perimeter of the site unless the proposed Freestanding Place of Worship requires a Special Permit.
 - (b) The requirement in § 164-7(B)(1)(s) that the site plan disclose types of materials proposed to be used on the site shall not be interpreted to require information that is not required for a building permit application or Architectural Review Committee application unless the proposed Freestanding Place of Worship requires a Special Permit.
 - (c) The requirement in § 164-7(B)(2) of a Grading, Drainage, and Utilities Plan Sheet shall apply only if the application will involve changes to grading, drainage, and/or utilities.
 - (d) Sections 164-8 and 164-9 relating to landscaping and lighting systems shall not apply. The requirement in § 164-7(B)(3) of a Landscaping and Lighting Plan Sheet shall not apply. Instead, the site plan shall show how the application complies with applicable § 210-87(C), Outdoor Lighting Standards, of the Village Code.
 - i. A landscaping plan and lighting plan are required for all proposed Freestanding Places of Worship that require a Special Permit. The Planning Board shall review and provide comment on such plans.
 - (e) The requirement in § 164-7(B)(4) of profile and detail plan sheets for roads, driveways, and utilities shall not apply unless such information is necessary to obtain a building permit.
 - (f) The parking and loading requirements in § 164-10 shall not apply except as follows:
 - i. The proposed Freestanding Place of Worship requires a Special Permit.
 - ii. Use of the site as a catering facility is proposed.
- (3) Signage and Design. All applicable requirements of § 5-10 of the Village Code, and Article VIII (Signs) of this chapter shall apply.

- (4) Use. The establishment of a Freestanding Place of Worship less than 10,000 sq. ft. as a principal use is permitted as-of-right, provided it is located on a conforming lot. Any Freestanding Place of Worship shall comply with the area requirements applicable to a single-family residence in the district in which such building or structure is situated. Freestanding Places of Worship equal to or larger than 10,000 sq. ft. require a special permit from the Planning Board. An Existing Residential Place of Worship may convert to a Freestanding Place of Worship.
- (5) Accessory uses to a Freestanding Place of Worship.
- (a) A residence may be an accessory to a Freestanding Place of Worship and shall be subordinate in the aggregate to the size and function of the Freestanding Place of Worship. Parking shall be provided for the accessory residence in accordance with § 210-56(A)(13).
 - (b) Outdoor areas of the property may be used for purposes reasonably related to the practice of religion and that do not pose a clear and unambiguous risk to the health, safety and general welfare of the community. Temporary structures for religious purposes shall be permitted subject to § 210-26.
 - (c) Commercial kitchens shall be permitted. Requirements for installing commercial kitchen equipment, such as a ventilated hood with a fire suppression system, shall meet all requirements of the State Uniform Fire Code and all other applicable State laws.
 - (d) Baths reasonably related to the practice of religion may be provided.
 - (e) Classrooms for religious instruction may be provided, but full-time public or private elementary, secondary, or post-secondary schools shall be deemed as separate use from a Freestanding Place of Worship and are not a permitted accessory use.
 - (f) Accessory uses of catering facilities/social halls are permitted subject to the standards set forth in § 210-117.
 - (g) Accessory uses of gymnasiums and/or indoor recreation facilities are permitted.
- (6) Bulk Regulations and Occupancy Limits.
- (a) Residential Zoning Districts.
 - i. The minimum lot size shall be the same as the minimum lot size for a one-family detached residence in that district.
 - ii. The maximum size of a Freestanding Place of Worship is controlled by floor area ratio (FAR) of the zoning district in which the lot is located.
 - (b) Non-Residential Zoning Districts. Freestanding Places of Worship in non-residential districts shall be subject to the bulk requirements found in Tables 6-11 of this chapter.
- (7) Dimensional Exemptions, Waivers, and Visual Screening for Freestanding House of Worship in Residential Zoning Districts.

- (a) The Planning Board shall waive the side yard and rear yard setbacks and development coverage of the underlying zoning district to accommodate the parking required by this section to the extent that the applicant can demonstrate compliance with the requirements of § 210-12.3(B)(7)(b).
 - (b) The plan shall comply with Article XIV (Stormwater Control) of this chapter to prevent impacts from increased stormwater runoff. All properties less than one acre that require a development coverage waiver under § 210-12.2(B)(7)(a) shall provide on-site stormwater management for the additional development coverage granted by the Planning Board.
 - (c) Parking areas must be screened by landscaping, fencing, or a combination of both and shown on the site plan. Lots larger than one acre shall require parking spaces and drives to be set back 10 feet from all property lines to allow for required landscaping and fencing to screen views of parked cars. Lots of one acre or less shall provide eight feet.
- (8) All required fire safety features at any house of worship, such as panic door hardware, exit lighting, emergency lighting, pull fire alarms, and/or automatic sprinkler systems, shall be governed by New York State Building and Fire Codes, and/or Rockland County Department of Health regulations.
- (9) Parking. Parking shall be required as follows:
- (a) One parking space for every 60 square feet of sanctuary/assembly space, but no fewer than 10 parking spaces. Hallways, bathrooms, social rooms, classrooms, storage, and/or mikvah/bath space shall not be counted towards the parking requirements except where such ancillary uses are occupied at the same time as the sanctuary/assembly space.
 - (b) Parking must meet § 210-48, Location and size of parking spaces and § 210-55, Additional Requirements.
 - (c) The reservation of parking areas for future parking lot development may be provided in lieu of the construction of parking spaces. These areas need to be delineated on the site plan and shall not be used or otherwise encroached upon by any permanent structures.
 - (d) Parking for catering facilities or social halls shall be in accordance with § 210-117.
 - (e) For a Freestanding Place of Worship proposing an accessory use of catering facilities/social halls, attendance at any services, wedding receptions or other social or religious functions held at the Freestanding Place of Worship shall be limited to the capacity of the Freestanding Place of Worship as determined by the applicable building codes of New York State, as well as the available on-site parking, unless a parking management plan (PMP) is provided. Such events

demanding parking in excess of the on-site parking provided shall require a PMP to be submitted for approval by the Planning Board as part of the site plan application establishing a Freestanding place of Worship, pursuant to the requirements set forth below. The PMP shall be used to address parking demand during the maximum projected attendance at the maximum building capacity, for holy days or other large, planned events for the particular place of worship making the application. Such PMP shall be provided to the Airmont Police Department, the applicable Fire Department and the office of the Airmont Village Clerk. If a PMP is required, the applicant shall address the following:

- i. Designated off-site parking areas. The applicant shall submit a fully executed written agreement between the applicant and one or more providers of a location for off-site parking
- ii. The applicant shall indicate implementation of group travel to and from the off-site parking locations by the use of shuttle vehicles;
- iii. The applicant shall use traffic control measures such as the hiring of an off-duty police officer and/or volunteers to facilitate pedestrian flow, as well as on-site and off-site traffic;
- iv. The applicant shall provide a notification process to notify patrons of the community place of worship and others regarding the locations of off-site parking areas to be used; and
- v. In the event that off-site parking areas are not available to accommodate the full capacity of the community place of worship, methods to limit the number of event attendees to the number of attendees that can be accommodated in the on-site parking area or at any available off-site locations by utilization of a pre-event registration system and distribution of tickets to registered persons that will be submitted upon arrival at the site on the day of the event.
- vi. Existing freestanding places of worship in existence prior to the adoption of this section shall submit a PMP for large events to the Planning Board within one year of adoption.

(f) Parking must meet § 210-48, Location and size of parking spaces and § 210-55, Additional Requirements.

- (10) The site plan shall demonstrate compliance with all applicable laws, statutes, rules and/or regulations, including, but not limited to, the New York State Building and Fire Codes, and the bulk regulations applicable to the underlying zoning district, subject to the applicable provisions of Article XIII of this chapter (Nonconforming Uses, Buildings or Lots).
- (11) Hours of Operation. No regularly scheduled assembly shall take place between the hours of 12:00 midnight and 6:00 a.m. For the purpose of this provision, regularly scheduled shall mean occurring in greater frequency than 12 times per calendar year.

- (12) Freestanding Places of Worship Less Than 10,000 sq. ft.: Freestanding Places of Worship, as defined by this Code, that will be located in a residential zoning district and are less than 10,000 sq. ft. shall submit an application to the Clerk to the Planning Board for Site Plan approval in accordance with Article IX, Site Development Plan Review. Such applicants may elect at the applicant’s discretion but are not required to appear before the Community Design Review Committee (CDRC) for technical review of the application.

Freestanding Places of Worship Equal or Greater Than 10,000 sq. ft.: Freestanding Places of Worship, as defined by this Code, that will be located in a residential zoning district and are equal to or greater than 10,000 sq. ft. or will be located in a non-residential zoning district, shall submit an application for Site Plan and Special Permit approvals in accordance with Article IX, Site Development Plan Review and Article XI, Special Permit Approval.

Section 7. Section 210-14 (“RR-50 Rural Residential District regulations.”)

Section 210-14(A)(5) shall be inserted after Section 210-14(A)(4) to read as follows:

“Residential Place of Assembly”

Section 210-14(A)(6) shall be inserted after Section 210-14(A)(5) to read as follows:

“Freestanding Place of Worship less than 10,000 sq. ft.”

Section 210-14(B)(21) shall be deleted and replaced with the following:

“Freestanding Place of Worship equal to or greater than 10,000 sq. ft.”

Section 210-14(B)(22) and Section 210-14(B)(24) shall be deleted.

Section 210-14(B)(23) shall be renumbered to Section 210-14(B)(22).

Section 8. Section 210-15 (“R-40 Rural Residential District regulations.”)

Section 210-15(A)(5) shall be inserted after Section 210-15(A)(4) to read as follows:

“Residential Place of Assembly”

Section 210-15(A)(6) shall be inserted after Section 210-15(A)(5) to read as follows:

“Freestanding Place of Worship less than 10,000 sq. ft.”

Section 210-15(B)(18) shall be deleted and replaced with the following:

“Freestanding Place of Worship equal to or greater than 10,000 sq. ft.”

Section 210-15(B)(19) and Section 210-15(B)(21) shall be deleted.

Section 210-15(B)(20) shall be renumbered to Section 210-15(B)(19).

Section 9. Section 210-16 (“R-35 Rural Residential District regulations.”)

Section 210-16(A)(5) shall be inserted after Section 210-16(A)(4) to read as follows:

“Residential Place of Assembly”

Section 210-16(A)(6) shall be inserted after Section 210-16(A)(5) to read as follows:

“Freestanding Place of Worship less than 10,000 sq. ft.”

Section 210-16(B)(18) shall be deleted and replaced with the following:

“Freestanding Place of Worship equal to or greater than 10,000 sq. ft.”

Section 210-16(B)(19) and Section 210-16(B)(21) shall be deleted.

Section 210-16(B)(20) shall be renumbered to Section 210-16(B)(19).

Section 10. Section 210-17 (“R-25 Rural Residential District regulations.”)

Section 210-17(A)(5) shall be inserted after Section 210-17(A)(4) to read as follows:

“Residential Place of Assembly”

Section 210-17(A)(6) shall be inserted after Section 210-17(A)(5) to read as follows:

“Freestanding Place of Worship less than 10,000 sq. ft.”

Section 210-17(B)(16) shall be deleted and replaced with the following:

“Freestanding Place of Worship equal to or greater than 10,000 sq. ft.”

Section 210-17(B)(17) and Section 210-17(B)(19) shall be deleted.

Section 210-17(B)(18) shall be renumbered to Section 210-17(B)(17).

Section 11. Section 210-18 (“R-15 Rural Residential District regulations.”)

Section 210-18(A)(6) shall be inserted after Section 210-18(A)(5) to read as follows:

“Residential Place of Assembly”

Section 210-18(A)(7) shall be inserted after Section 210-18(A)(6) to read as follows:

“Freestanding Place of Worship less than 10,000 sq. ft.”

Section 210-18(B)(15) shall be deleted and replaced with the following:

“Freestanding Place of Worship equal to or greater than 10,000 sq. ft.”

Section 210-18(B)(16) and Section 210-18(B)(18) shall be deleted.

Section 210-18(B)(17) shall be renumbered to Section 210-18(B)(16).

Section 12. Section 210-20 (“NS Neighborhood Shopping District regulations.”)

Section 210-20(C)(15) shall be deleted

Section 210-20(C)(16) shall be renumbered to Section 210-20(C)(15).

Section 13. Section 210-21 (“VC Village Center District regulations.”)

Section 210-21(C)(19) shall be deleted

Section 210-21(C)(20) shall be renumbered to Section 210-21(C)(19).

Section 14. Section 210-22 (“PO Professional Office District regulations.”)

Section 210-22(C)(9) shall be deleted.

Section 15. Section 210-23 (“LO Laboratory Office District regulations.”)

Section 210-23(B)(8)(d) shall be deleted

Section 16. Section 210-56 (“Off-street parking requirements.”)

Section 210-56(A)(3) shall be deleted and replaced with the following:

“Residential Places of Assembly. At least one parking space per 200 square feet of floor area or one per three seats' capacity, whichever is greater.”

Section 210-56(A)(42) shall be inserted after Section 210-56(A)(41) to read as follows:

“Residential Places of Worship shall follow the parking requirements found in §210.12.2 and Freestanding Places of Worship shall follow the parking requirements found in §210.12.3.

Section 17. Section 210-72 (“Approval required; exceptions.”)

Section 210-72 shall be amended to read as follows:

“No site development plan approval shall be required for a one-family detached residence on a single lot for additions, alterations, or structures accessory thereto. All other principal uses and all special permit and accessory uses shall require site development plan approval prior to the issuance of a building permit, except that for Residential Places of Worship and Freestanding Places of Worship the streamlined site plan approval process in §210-12.2 and §210-12.3 shall apply, and in case of a conflict with this §210-72, §210-12.2 shall control. A change of use shall require site plan approval where, in the judgment of the Building Inspector, there will be an increase in parking, traffic, water consumption, sewage effluent or other regulated activity. No certificate of occupancy or certificate of use shall be issued unless all requirements of the site development plan approval have been fully met. No lot or parcel of land shall be used except in conformity with an approved site development plan, when required. Where required, site development plans shall be referred to the Rockland County Department of Planning and other agencies.”

Section 18. Section 210-117 (“Catering Facilities”)

Section 210-117 (B) shall be amended as follows:

“Parking shall be provided at a rate of one parking space per 60 square feet, and one parking space for each employee serving the guests.”

Section 19. The Village of Airmont Chapter 210- 174, (“Definitions”)

Section 210-174 shall be amended to delete “Residential Place of Worship,” Residential Place of Assembly,” “Place of Worship, Freestanding,” “Residence, One Family” and “Floor Area Ratio” and replaced with the following definitions to be incorporated in alphabetical order:

Floor Area Ratio:

The gross floor area of all buildings on a lot divided by the area of the lot. The following areas shall not be counted toward gross floor areas.

- A. Unheated enclosed garage area; or
- B. All or a portion of a cellar or basement that is located within a one-family detached residence that is partly or wholly below the finished grade of the building where the finished surface of the floor above the basement or cellar is no more than 3 feet above the finished grade for more than 50% of the total building perimeter.

Place of Worship, Freestanding: A freestanding place of worship shall mean a building or structure used exclusively for the conduct of any form of organized religious devotion, ritual services, or acts of religious praise, honor or devotion, which does not fall under the definition of a Residential Place of Worship. A residence may be an accessory to the Freestanding Place of Worship.

Residence, One Family Detached: A building designed, used or occupied for residential purposes for one dwelling unit only. All references to one family residence in this chapter shall mean one family detached residence.

Residential Place of Assembly: An accessory area within a one-family detached residence, not to exceed 1,400 square feet or 30% of the gross floor area of the residence, whichever is lesser, that is used by organizations or loose affiliations of likeminded people to conduct civic, or social activities, or organizational functions more than three times per month. Occupancy shall not exceed 49 persons.

Residential Place of Worship: An area within a residence that is an accessory to the residence for the conducting of religious services which shall not exceed 49% of the gross floor area of the residence, and the occupancy of a Residential Place of Worship shall not exceed 49 persons.

Section 20. Tables 1-5 will be amended as follows:

“Neighborhood Places of Worship” category will be removed.

“Residential Places of Assembly, see § 210-12.1” will be added.

“Residential Places of Worship, see § 210-12.2” will be added.

“Freestanding Places of Worship, see § 210-12.3” will be added.