

Zoning Bylaw Amendments to Codify Dover Amendment Reviews

Additions to the Zoning Bylaw shown in underline format. Deletions shown in ~~strikeout format~~.

ARTICLE 20

**ZONING BYLAW AMENDMENT/REVIEW OF
RELIGIOUS AND EDUCATIONAL USES**

To see if the Town will vote to amend the Zoning Bylaw to clarify the process by which the Town reviews religious and educational uses by:

1. Amending SECTION 3.4 ENVIRONMENTAL DESIGN REVIEW to remove paragraph J referring to religious and educational uses;
 2. Adding a new SECTION 3.5 RELIGIOUS AND EDUCATIONAL USE REVIEW that codifies an administrative review process that is consistent with M.G.L. Chapter 40A, Section 3;
 3. Amending SECTION 5.4.3. USE REGULATIONS FOR RESIDENTIAL DISTRICTS to clarify notes which refer to educational and religious uses;
 4. Amending SECTION 5.5.3. USE REGULATIONS FOR BUSINESS DISTRICTS to clarify notes which refer to educational and religious uses; and
 5. Amending SECTION 5.6.3. USE REGULATIONS FOR MU, PUD, I, T, AND OS DISTRICTS to clarify notes which refer to educational and religious uses.
- or take any action related thereto.

(Inserted at the request of the Redevelopment Board)

Amend SECTION 3.4 ENVIRONMENTAL DESIGN REVIEW to remove paragraph J referring to religious and educational uses:

~~J. Use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; or the use of land or structures for a child care facility; provided, however, as provided and limited by the provisions of G.L. c. 40A, § 3, that the Board's authority shall be limited to reasonable regulation of the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking, and building coverage requirements.~~

Add a new SECTION 3.5 RELIGIOUS AND EDUCATIONAL USE REVIEW that codifies an administrative review process that is consistent with M.G.L. Chapter 40A, Section 3:

3.5 RELIGIOUS AND EDUCATIONAL USE REVIEW

3.5.1 Purposes

The purpose of Section 3.5 is to provide for reasonable regulation of religious, non-profit educational, and child care facilities used primarily for such purposes consistent with G.L. c. 40A, §3. Specifically, reasonable regulation refers to the bulk and height of structures and in determining yard sizes, lot area, setbacks, open space, parking, and building coverage requirements. When applying reasonable regulation, the Town shall not unreasonably impede the protected use without appreciably advancing the goals of the Arlington Master Plan or other development plans and policies of the Town.

3.5.2 Procedures

- A. Building Inspector Review: To determine whether a religious, non-profit educational, or child care facility use is protected under G.L. c. 40A, §3, the property owner or agent of an owner

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shall submit to the Building Inspector such information necessary to make the following findings:

- (1) That the applicant has sufficiently demonstrated that the proposed use of the property or structures is for a religious, non-profit educational, or child care purpose, or appropriate combination thereof; and
- (2) That the applicant has sufficiently demonstrated that the proposed use of the property or structure for these purposes is the principal use.

B. ~~Department of Planning and Community Development~~Arlington Redevelopment Board Review: If the applicant has satisfied the Building Inspector per Section 3.5.2.A., the Building Inspector shall inform the ~~Department of Planning and Community Development~~ ("Department")Arlington Redevelopment Board that a given application is appropriate for administrative review for the purposes set forth in Section 3.5.1. The ~~Department~~Redevelopment Board shall apply those requirements allowed by G.L. c. 40A, §3, in a reasonable fashion within the specific context of the proposed project as an administrative permitting process with the following responsibilities:

- (1) The applicant bears the burden of establishing that the application of a given regulation should be waived, reduced, or altered as unreasonable within the specific facts of both the site and the proposed use; and
- (2) The ~~Department~~Arlington Redevelopment Board bears the burden of applying only those regulations in accordance with the goals of the Arlington Master Plan or other development plans and policies of the Town.
- ~~(2)(3)~~ The Arlington Redevelopment Board shall issue an administrative decision setting forth only those conditions allowed by G.L. c. 40A, §3, within 90 days of receipt of the application from the Building Inspector unless an extension of time is agreed upon by the parties, but in any case, shall not withhold approval under this administrative review section.

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3.5.3 Appeal

An appeal to the Board of Appeals or the Arlington Redevelopment Board may be taken by any person aggrieved due to the determination of the Building Inspector or the Department, as provided in G.L. c. 40A, § 8 and § 15. An appeal of the decision of the Arlington Redevelopment Board may be made as set forth in G.L. c. 40A, §17 to a court of competent jurisdiction.

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Amend SECTION 5.4.3 USE REGULATIONS FOR RESIDENTIAL DISTRICTS to clarify notes which refer to educational and religious uses:

Class of Use	R0	R1	R2	R3	R4	R5	R6	R7
Residential								
Dormitory (Note: permitted See Section 3.5 if use is for educational or religious purposes)			SP	SP	SP	SP	SP	SP
Institutional, Educational								
Community center, youth club, adult	SP	SP	SP	SP	SP	SP	SP	SP

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Class of Use	R0	R1	R2	R3	R4	R5	R6	R7
education center, or similar facility operated by a non-profit institution (Note: permitted See Section 3.5 if use is for educational or religious purposes.)								
Library, museum, or art gallery open to the public and not conducted as a private gainful business. (Note: permitted See Section 3.5 if use is for educational or religious purposes.)	SP	SP	SP	SP	SP	SP	SP	SP

Amend SECTION 5.5.3 USE REGULATIONS FOR BUSINESS DISTRICTS to clarify notes which refer to educational and religious uses:

Class of Use	B1	B2	B2A	B3	B4	B5
Residential						
Dormitory (Note: permitted See Section 3.5 if use is for educational or religious purposes.)	Y	Y	Y	Y	Y	Y
Institutional, Educational						
Community center, youth club, adult education center, or similar facility operated by a non-profit institution (Note: permitted See Section 3.5 if use is for educational or religious purposes.)	SP	SP		SP		SP
Library, museum, or art gallery open to the public and not conducted as a private gainful business. (Note: permitted See Section 3.5 if use is for educational or religious purposes.)	SP	SP	SP	SP		SP

Amend SECTION 5.6.3 USE REGULATIONS FOR MU, PUD, I, T, AND OS DISTRICTS to clarify notes which refer to educational and religious uses:

Class of Use	MU	PUD	I	T	OS
Residential					
Dormitory (Note: permitted See Section 3.5 if use is for educational or religious purposes)	SP	SP			
Notes					
^B But permitted by right if accessory to a use exempt under G.L. c. 40A, § 3. <u>See Section 3.5.</u>					

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