

**DRAFT**  
**Village of Upper Nyack**  
**Local Law #1 of 2023**

Be it enacted by the Board of Trustees of the Village of Upper Nyack as follows:

**SECTION 1. TITLE.**

A Local Law amending the 2022 Zoning Law of the Village of Upper Nyack.

**SECTION 2. ZONING LAW AMENDMENT.**

The 2022 Zoning Law of the Village of Upper Nyack (the “Zoning Law”) shall be amended and modified as follows:

1. **GENERAL AMENDMENTS.** The Table of Contents and internal section references throughout the Zoning Law shall be updated to align with the substantive changes as provided in this Local Law.
2. **AMENDMENTS TO SECTION 2: DEFINITIONS.**
  - a. Section 2.1 shall be modified to:
    - i. Add the following definitions:
      1. “CUSTOMARY PET: The keeping of the following domesticated animals on a Lot: dogs; cats; fish; birds; rabbits, hamsters, gerbils, Guinea pigs, and other similar small mammals; and small reptiles for companionship, pleasure or other similar purposes and not primarily for commercial purposes. Domesticated animals are kept primarily for commercial purposes when the collective annual gross receipts related to all such animals kept on the Lot, including, but not limited to, receipts from the sale of such animal or its offspring or pelts or the boarding of such animals, exceeds five thousand dollars in any calendar year. Animals included within the definitions of “Prohibited Animal,” “Small Animal” or “Livestock Animal” as set forth in Section 9.6.20 shall not be classified as Customary Pets.”
      2. “SWIMMING POOL: Any receptacle for water having a depth of 2 feet or more at any point and which can hold 500 gallons of water or greater and is intended to be used for swimming or other similar purposes. Swimming pools include, but are not limited to, inground swimming pools, above ground swimming pools, outdoor spas, and hot tubs and other similar structures which meet or exceed the size requirements set forth in this definition.”
      3. “WAREHOUSE: A building in which raw materials or manufactured goods may be stored before their export or distribution for sale.”

ii. Delete and replace the following definitions:

1. Floor Area. Delete the current definition and replace it with the following definition:

“FLOOR AREA: The sum of the gross horizontal area of each floor of a Building from the exterior face of exterior walls or from the center line of a wall separating 2 buildings, but excluding any space where no portion of the floor-to-ceiling height, or, in the case of a Basement, the distance between the Basement floor and the underside of the floor on the level above, is greater than 7 feet. This definition shall include garages, sunrooms and any other area covered by a roof. Mezzanines, lofts and attic spaces where any portion of such spaces is greater than 7 feet in height shall be included in the calculation of Floor Area.”

2. Grade Plane: Delete the current definition and replace it with the following definition:

“GRADE PLANE: A horizontal reference plane that is the average of the maximum elevation along all exterior walls of a Building and the minimum elevations along all exterior walls or within 6 feet of all exterior walls of a Building.”

iii. Delete the definition for the following term: “IN-GROUND SWIMMING POOL”.

iv. Renumber the subparagraphs in the definition of “LOT AREA, NET” so that all subparagraphs are consecutively numbered.

v. Arrange all definitions in alphabetical order and consecutively number such definitions.

3. **AMENDMENTS TO SECTION 3: ESTABLISHMENT OF ZONING DISTRICTS; ZONING MAP.**

a. The text of Section 3.3.6 shall be deleted and shall be replaced with the following text:

3.6.6. Lots Divided by Zoning District Lines.

3.6.6.1. Where a Lot is divided by one or more zoning district lines and all portions of the Lot are located in a residential district, then the Use and dimensional regulations of the most restrictive district in which the Lot is located shall control and shall apply to the entire Lot.

3.6.6.2. Where a Lot is divided by one or more zoning district lines and one or more district is a residential zoning district and the other zoning district is a commercial zoning district, then the applicant may elect to use the Lot for Uses permitted in the residential district or in the commercial district. All Principal Buildings and Structures, accessory parking and loading facilities, and principal means of vehicular access shall be located in the selected district (i.e. commercial buildings and related parking, loading and access must be located on the portion of the Lot within the commercial district and residential uses and related parking and access must be located on the portion of the Lot in the residential district); however, the Bulk regulations in the most restrictive residential district in which the Lot is located shall apply to the Lot as a whole.

3.6.6.3. Where a Lot is divided by one or more zoning district lines and one or more district is a residential zoning district and the other zoning district is a commercial zoning district, but the proposed Use is a Use that is permitted in the residential district and the commercial district, then the Use may be located on any portion of the Lot and the Bulk regulations applicable in the most restrictive residential district in which the Lot is located shall control.

- b. The Zoning Map shall be amended to include a visual indication of the location of approved Cluster Subdivisions and to add the following note: “For areas developed pursuant to the Cluster Subdivision authority of NYS Village Law 7-738, please consult with the Zoning Inspector and the Cluster Subdivision Plat for applicable bulk requirements.” A copy of the revised Zoning Map is annexed hereto as Schedule A.

#### **4. AMENDMENTS TO SECTION 4: GENERAL REGULATIONS.**

- a. The text of Section 4.5.6.1 shall be deleted and shall be replaced with the following text:

“No Building, Structure or Use may encroach into any Required Yard unless specifically permitted in this Zoning Law. Building and Structures that may not encroach into Required Yards include, but are not limited to, Principal Buildings, Decks, Porches, Patios, chicken coops, Swimming Pools, playsets, pergolas, and gazebos. Playsets and Swimming Pools shall be prohibited in all Required Yards and in the Front Building Setback.”

- b. Section 4.5.6.2.4 shall be modified to replace the words “In-Ground Swimming Pools” with “Swimming Pools” in the beginning of such section.

- c. The text of Section 4.5.7 shall be deleted and replaced with the following text:

“The maximum Building or Structure Height limitations of this Zoning Law shall not apply to chimneys, skylights, Solar Energy Collectors, necessary mechanical

equipment, code mandated railings or guards, and other similar features provided that such features shall not extend more than the minimum dimension required by the Uniform Code or 2 feet above the roof for One or Two Family Dwellings, whichever is greater, or 8 feet above the roof for all other uses.”

- d. The following use shall be added to Section 4.6 as a prohibited use: “Keeping of any Prohibited Animal as defined in Section 9.6.20.1.3 on a Lot.”

**5. AMENDMENTS TO SECTION 5: DISTRICT REGULATIONS.**

- a. The text of Section 5.3.3.2 shall be deleted and replaced with the following text:

“Planting Strip Along 9W. For those areas of a Lot abutting Route 9W, a planting strip of at least 10 feet in width as measured from the Front Lot Line shall be maintained along the entire length of the Lot’s 9W Frontage and fully enclosed within the Lot (excepting areas used for access driveways and areas designated to preserve sight lines from such driveways) with the following minimum requirements: (a) For each 100 lineal feet or major fraction thereof, there shall be 4 deciduous shade trees with a DBH of at least 2 inches each, and at least 2 evergreen trees of at least 4 feet in height when initially planted. Trees should be informally dispersed with informal plantings of shrubs, hedges, ground covers and flowers in a layout and with species as depicted on a landscape plan to be approved by the Planning Board pursuant to Section 10 (Site Plan Review) hereof. The Planning Board shall have the authority to waive the requirements of this Section 5.3.3.2 for good cause shown provided that landscaping is adequate to buffer the view of improvements from Route 9W.”

**6. AMENDMENTS TO SECTION 6: SUPPLEMENTARY REGULATIONS.**

- a. Section 6.1.3.7.2(d) shall be revised to delete the words “Building Front Yard” and replace them with the words “Front Building Setback”.
- b. Section 6.3 Walls and Fences shall be deleted and replaced with the following:

6.3. Walls and Fences. Except as otherwise provided herein, Fences and walls, including Retaining Walls and Deer Fences are permitted in Required Yards, provided that such Fences and walls are not located in such a manner as to obstruct traffic movement or visibility from any Street and further provided that all Fences and walls comply with the following height limitations regardless of where they are located on a Lot:

- 6.3.1. Fences, other than Deer Fences and walls, other than Retaining Walls, may be a maximum of 6 feet in height as measured from the approved Finished Grade immediately adjacent to such Fence or wall (or if there is no approved Finished Grade to the Finished Grade existing prior to the installation of the subject Fence or wall) to the highest point of such Fence or wall. Ornamental features, including but not limited to, arbors, gates,

pillars, or other similar features at any opening in a Fence or wall to allow for pedestrian or vehicular access to a Lot may be a maximum of 9 feet in height as measured from the approved Finished Grade immediately adjacent to such Fence or wall (or if there is no approved Finished Grade to the Finished Grade existing prior to the installation of the subject Fence or Wall) to the highest point of the ornamental feature. Such ornamental features, in the aggregate, shall measure no more than 10 percent of the length of the Fence on the frontage on which they are located.

6.3.2. Retaining Walls may be a maximum of 6 feet in height as measured vertically at any point along the wall from the lowest point of the exposed face of the wall to the highest point of such Retaining Wall. Retaining Walls shall be setback from any Lot Line to the extent necessary to allow adequate space for access to the Retaining Wall for maintenance purposes and adequate screening on the Lot on which the Retaining Wall is located.

6.3.3. Deer Fences may be a maximum of 8 feet in height as measured in the same manner as for other Fences, unless such Fence is located within any Required Front Yard, in which case it may be a maximum of 6 feet in height

6.3.4. Prior to the construction, relocation, change of material, or extension in height or length of any Fence or wall including Retaining Walls, the property owner shall obtain a permit from the Village of Upper Nyack Building Department. Application for such permit shall be made on forms and supported by documentation as required by the Village's Code Enforcement Official and shall demonstrate compliance with the requirements of this Section 6.3. Note: See Section 10.1.3.2 regarding Site Plan approval requirements for certain walls.

c. The text of Section 6.7 shall be deleted and replaced with the following text:

## 6.7 Steep Slopes.

### 6.7.1 Limitations on Permanent Alterations of Steep Slopes.

6.7.1.1 All Steep Slopes. The Planning Board may permit the permanent alteration of any Steep Slope if it finds that the alteration of the slope will improve the stability of the slope and will improve environmental conditions on the Lot on which the slope is located and in the surrounding area.

6.7.1.2 Slopes of 15% - 24%. Except as otherwise provided in Section 6.7.1.1, Slopes of 15% to 24% shall not be permanently altered unless the Planning Board finds that: (i) such alterations are reasonably necessary to facilitate the proposed development of the Lot; (ii) such alterations will not cause significant negative impacts

to the surrounding area, particularly related to stormwater management; (iii) the slope will be stabilized and restored to a safe condition following the alteration; and (iv) that such alterations have been minimized to the maximum extent practicable.

6.7.1.3 Slopes of 25% - 39%. Except as otherwise provided in Section 6.7.1.1, Slopes of 25% to 39% shall not be permanently altered unless the Planning Board finds that: (i) there are no reasonable alternatives that do not require the permanent alteration to slopes of 25% to 39% or greater for the applicant to pursue to allow for the reasonable development of the Lot; (ii) such alterations will not cause significant negative impacts to surrounding areas, particularly related to stormwater management; (iii) the slopes will be stabilized and restored to a safe condition following the alteration; and (iv) that such alterations have been minimized to the maximum extent practicable.

6.7.1.4 Slopes of 40% and Greater. Except as otherwise provided in Section 6.7.1.1, Slopes of 40% or greater shall not be permanently altered unless the Planning Board finds that : (i) there are no reasonable alternatives that do not require permanent alteration to slopes of 40% or greater for the applicant to pursue to allow for the reasonable development of the Lot; (ii) such alterations will not cause significant negative impacts to surrounding areas, particularly related to stormwater management; (iii) the slopes will be stabilized and restored to a safe condition following the alteration; and (iv) that such alterations have been minimized to the maximum extent practicable.

6.7.2 Site Plan Approval Required. Site Plan Approval from the Planning Board shall be required prior to the permanent alteration of any Steep Slope on a Lot. In addition to the Site Plan requirements set forth in Section 10.5 of this Local Law, all applications for Site Plan Approval that include the permanent alteration to Steep Slopes shall include a slope disturbance and stabilization plan prepared by a qualified professional licensed by the State of New York, such as a professional engineer, a certified professional in erosion and sediment control or a landscape architect, and such plans shall be signed and sealed by such professional. Such plan shall show, at a minimum: (i) the extent of Steep Slopes on the Lot (including a clear identification of the slopes category (i.e. 15-24% slopes, 24-39% slopes or 40%+ slopes)) for all Steep Slopes on the Lot; (ii) the extent of any disturbance; and (iii) restoration and mitigation measures associated with the proposed alteration.

- d. The text of Section 6.9 shall be deleted and replaced with the following text:

6.9. Swimming Pools.

- 6.9.1. All Swimming Pools must have the required enclosure as specified in the Uniform Code, and such enclosures shall be maintained in a safe and operable condition as long as the pool exists.
- 6.9.2. All Swimming Pools shall be maintained in a manner sufficient to meet all applicable bacterial standards established by the provisions of the New York State Sanitary Code or other applicable public health and safety codes.
- 6.9.3. Swimming Pools and pool equipment shall not be located in the Front Building Setback, and shall be Setback from all Side or Rear Lot Lines a minimum of 30 feet. Setbacks shall be measured from the edge of the coping or pool structure.
- 6.9.4. Swimming Pools and all pool equipment and related Structures shall be adequately screened from view from surrounding properties using fencing, landscaping or a combination thereof.
- 6.9.5. Site Plan approval from the Planning Board shall be required before any Swimming Pool with a footprint of 40 square feet or greater is installed, relocated, or Altered in a manner that increases its footprint. For the purposes of this Section 6.9.5 the Swimming Pool footprint shall include the footprint of the Swimming Pool Structure and the Swimming Pool equipment (or the pad on which the Swimming Pool equipment is located) but shall exclude any patio surrounding the Swimming Pool.

**7. AMENDMENTS TO SECTION 9: SPECIAL USE PERMITS.**

- a. The text of Section 9.3.4.1 shall be deleted and replaced with the following text:
- “The Planning Board may refer copies of any Special Use Permit application that it receives to the Village Engineer and to such other governmental agencies or officials as it deems appropriate. Such governmental agencies or officials shall report their findings to the Planning Board in writing within 30 days of the date the referral is transmitted to such agency. If such agencies fail to report their findings to the Planning Board within such 30-day period the Planning Board may conclude that such agencies do not have any comment on the application.”
- b. The following text shall be added to Section 9.4.2.1.1 following the words “Village Clerk’s office”: “unless the Planning Board, as a condition of the grant of any Special Use Permit, sets a shorter duration for such approval.”

c. The following text shall be added at the end of Section 9.4.2.2.4: “Site Plan approval is required in connection with all Special Use Permit Renewal applications unless a waiver of Site Plan approval pursuant to Section 10.4.3.2 of this Local Law is granted by the Planning Board.”

d. A new Section 9.6.19.7 shall be added which shall provide as follows:

“A copy of the Short Term Rental Certificate of Compliance shall be posted in a conspicuous location in the Dwelling.”

e. A new Section 9.6.20 shall be added which shall provide as follows:

9.6.20. Keeping of Animals other than Customary Pets.

9.6.20.1. Definitions.

9.6.20.1.1. Customary Pet: Shall have the meaning ascribed to it in Section 2.1.24.

9.6.20.1.2. Livestock Animals: Sheep, pigs, goats, horses, alpacas, llamas, mules, donkeys, turkeys, guinea hens, and other similar animals, but excluding Customary Pets, Small Animals, and Prohibited Animals.

9.6.20.1.3. Prohibited Animals. Canines other than domesticated canines (for example, wolf, coyote, fox, etc.), felines, other than domesticated felines (for example tigers, lions, jaguars, bobcat etc...), primates, hyena, skunk, raccoon, rats, venomous or large reptile (alligator, crocodile, venomous snakes, etc...), bear, marsupials, roosters, geese, cattle, ratites such as ostriches and emus, endangered species designated pursuant to section 11-0535 of the New York State Environmental Conservation Law, species named in section 11-0536 of the New York State Environmental Conservation Law or other species of native or non-native live wildlife or fish where the New York State Department of Environmental Conservation finds that possession, transportation, importation or exportation of such species of wildlife or fish would present a danger to the health or welfare of the people of the state, an individual resident or indigenous fish or wildlife population.

9.6.20.1.4. Small Animals: Chickens, pigeons, or other similar animals other than Livestock Animals, Customary Pets, and Prohibited Animals.

9.6.20.2. Keeping of Small Animals:

9.6.20.2.1. Minimum Lot Size: 10,000 square feet of Lot Area for the keeping of up to 6 Small Animals, plus an additional 3,000 square feet



of Lot Area for each additional Small Animal up to a maximum of 12 Small Animals in total per Lot.

9.6.20.3. Keeping of Livestock Animals.

9.6.20.3.1. Minimum Lot Size: 40,000 square feet of Lot Area for the keeping of 2 Livestock Animals, plus an additional 20,000 square feet for each additional Livestock Animal up to a maximum of 5 Livestock Animals in total on each Lot.

9.6.20.4. Keeping of Small and Livestock Animals.

9.6.20.4.1. Minimum Lot Size: 40,000 square feet of Lot Area for the keeping of 2 Livestock Animals and up to 6 Small Animals, plus an additional 20,000 square feet for each additional Livestock Animal up to a maximum of 3 Livestock Animals in total and 3,000 square feet for each Small Animal for a maximum of 12 Small Animals in total on each Lot.

9.6.20.5. Accessory Buildings and Structures.

9.6.20.5.1. Chicken coops, hutches, barns, stables, shelters, paddocks, or other similar Buildings and Structures used for the keeping of animals shall be prohibited in the Front Building Setback and shall be prohibited in any Required Yard.

9.6.20.5.2. The portion of the Lot on which the animals are kept shall be enclosed with a Fence meeting the requirements of Section 6.3 using materials suitable to keep the animals within the confines of the Lot. Such Fencing shall be installed before the animals are located on the Lot and shall be maintained in good repair for the duration of the Special Use Permit.

9.6.20.6. Uniform Permit Conditions. The following conditions shall be conditions of all Special Use Permits granted pursuant to this Section 9.6.20:

9.6.20.6.1. The animals shall be kept within a fenced yard or pen at all times or kept on a leash or otherwise properly physically restrained when taken off the Lot.

9.6.20.6.2. Breeding, commercial boarding of animals, or other commercial use is prohibited.

9.6.20.6.3. The animal(s) shall not make excessive noise that is out of character with the neighborhood in which the Lot is located, and the

property and Lot owner shall comply with the Village's Sound Law. During the Special Use Permit review process, the applicant shall provide proof of the types and levels of sound typical of the proposed animals and shall demonstrate the way sound produced by the animals will be mitigated so that it will not become a nuisance to persons in the surrounding neighborhood.

9.6.20.6.4. The Applicant shall maintain a clean and sanitary condition on the Lot so as not to attract vermin to the Lot or neighborhood.

9.6.20.6.5. The applicant shall comply with all municipal, county, state and federal rules and regulations applicable to such animals.

f. A new Section 9.6.21 shall be added which shall provide as follows:

9.6.21. Warehouses and Self-Storage Facilities.

9.6.21.1. The minimum Net Lot Area shall be 50,000 square feet.

9.6.21.2. Outdoor storage of shipping containers, goods, or other materials shall be prohibited.

9.6.21.3. All applications shall include a traffic study and a parking utilization study prepared by a qualified professional unless the Planning Board finds, based on good cause shown, that such study is not required.

9.6.21.4. Vehicular Access to Warehouses and Self-Storage Facilities shall be from Route 9W.

9.6.21.5. Buildings used for Warehouse or Self-Storage Facility purposes shall be set back a minimum of 50 feet from any Lot located within a residential zoning district.

9.6.21.6. The parking of commercial vehicles shall be as provided in Section 6.1.3.7.1.

9.6.21.7 The keeping or storing of any hazardous, toxic or highly flammable material within a Warehouse or Self-Storage Facility is prohibited.

**8. AMENDMENTS TO SECTION 10: SITE PLAN APPROVAL.**

- a. Section 10.1.1.1 shall be amended to delete the words “Impervious Surface Coverage” and to replace such words with “Development Coverage”.
- b. The text of Section 10.1.1.2.1 shall be deleted and replaced with the following text:

“Prior to the permanent alteration of any area of Steep Slopes, regardless of whether a building permit is required in connection with such disturbance (*see* Section 6.7.2).”
- c. The text of Section 10.1.1.2.4 shall be deleted and replaced with the following text:

“Prior to installing or Altering a Swimming Pool or tennis court or other sport court if required pursuant to Section 6.9.5 or 6.10.3, respectively.”
- d. The text of Section 10.1.3 shall be deleted and replaced with the following text:

10.1.3. Exceptions. Site Plan approval is not required for the following:

  - 10.1.3.1. Colocation of Wireless Telecommunication Facilities as provided in Section 15.
  - 10.1.3.2. Construction of a Shed meeting the requirements of Section 6.5 or a Fence or wall (including a Retaining Wall) meeting the requirements of Section 6.3, provided that the construction of or substantial alteration to a wall (including a Retaining Wall) exceeding 3 feet in height or higher in a Required Front Yard, or 4 feet in height or higher in any Required Side or Rear Yard shall require Site Plan approval from the Planning Board.
  - 10.1.3.3. Construction or alteration of a Deck, playset, or other non-Building structural improvement (other than walls exceeding the thresholds provided in Section 10.1.3.2), including, but not limited to patios and walkways that are 200 square feet in area or less, unless the addition of such Structure or Deck would increase Development Coverage beyond the maximum permitted Development Coverage for the Lot in which case Site Plan approval from the Planning Board and a variance from the ZBA shall be required prior to the issuance of a building permit for such work.
  - 10.1.3.4. The addition of an Accessory Use to a Lot unless the Use Table indicates that Site Plan approval is required before the Accessory Use can be established.

- e. The text of Section 10.2.10 shall be deleted and replaced with the following text:

“Endorsement of Final Site Plan. Within 90 days of the date that a resolution of approval or approval with modifications is adopted by the Planning Board, the applicant shall present to the Zoning Inspector a corrected final Site Plan including any modifications required by the Planning Board as a condition of its approval. Upon verification by the Planning Board Chairman that the Site Plan complies with the requirements of the Board’s approval, the Site Plan shall be endorsed by the Planning Board Chairman.”

- f. The text of Section 10.4 Expiration; Amendment shall be deleted and replaced with the following text:

10.4 Expiration; Amendment; Waiver.

10.4.1 Expiration. A Site Plan approval shall expire if:

10.4.1.1 The applicant fails to present to the Zoning Inspector a corrected Site Plan including any modifications required by the Planning Board as a condition of its approval and obtain the Planning Board Chairman’s signature on the Site Plan as required pursuant to 10.2.10 (Planning Board Chairman signature within 90 days of the date of approval). The Site Plan approval may be extended by the Planning Board upon written request of the applicant submitted to the Planning Board prior to the expiration pursuant to this Section 10.4.1.1 for up to 2 additional 30-day periods. No public hearing shall be required in connection with such request.

10.4.1.2 A building permit has not been issued for construction in accordance with an approved Site Plan within 18 months of the date that the Site Plan was signed by the Planning Board Chairman or if all improvements permitted or required by the Site Plan approval are not completed and a certificate of occupancy and/or certificate of compliance has not been issued within 2 years of the date that the building permit is issued. The Site Plan approval may be extended by the Planning Board upon written request of the applicant submitted to the Planning Board prior to the expiration pursuant to this Section 10.4.1.2 for up to 2 additional 6-month periods. No public hearing shall be required in connection with such request.

10.4.1.3 For all principal permitted commercial, industrial or marine uses, the Use for which Site Plan approval was granted has substantially ceased for a period of 12 consecutive months. For Uses permitted pursuant to Special Use Permit approval, the Site Plan approval for such use shall expire upon the expiration of the Special Use Permit pursuant to Section 9.4 of this Zoning Law.

10.4.1.4 If a court of competent jurisdiction determines that the Lot for which the Site Plan approval was granted has been changed or altered in a manner that is not permitted by such approval or any conditions or standards that have been made a part of the Site Plan approval are violated.

#### 10.4.2 Amendment.

10.4.2.1 Minor Changes. Minor changes in an approved Site Plan may be approved administratively by the Village Engineer, Code Enforcement Official or Zoning Inspector, provided that the Village Engineer, Code Enforcement Official or Zoning Inspector finds that such Minor Change is consistent with the intent of the approved Site Plan and will not cause any additional adverse impacts to the surrounding community compared with the approved Site Plan. Minor changes which are approved by the Village Engineer, Code Enforcement Official or Zoning Inspector shall be reported in writing to the Planning Board at its next meeting. The report shall describe the changes and the justification for making the same and shall be made part of the formal record on file in the Building Department. Notwithstanding the above, the Village Engineer, Code Enforcement Official or Zoning Inspector is not required to approve any Minor Change to a Site Plan, but rather may refer any proposed change to a Site Plan to the Planning Board for review pursuant to Section 10.4.2.2 of this Zoning Law. For the purposes of this Section 10.4.2.1 a “Minor Change” to an approved Site Plan shall mean modifications of striping of Parking Spaces (provided that such striping does not affect the total number of spaces), relocation of handicap Parking Spaces, adjustment to curbing, modification of sidewalks and walkways, construction/modification of bollards, minor adjustments in the location of utilities, generators, and propane tanks, and minor modifications to site grading. A Minor Change is not anything that would change: (i) the approved stormwater management plan, (ii) the location of any Structure or Building, (iii) the architectural design or materials approved by the ARB, or (iv) increase Development Coverage to an extent greater than 5%.

10.4.2.2 Amendment. All Amendments to previously approved Site Plans that are not approved as a Minor Change pursuant to Section 10.4.2.1 of this Zoning Law shall follow the same procedure, rules and regulations as those that apply for applications for new Site Plan applications.

10.4.3 Waiver of requirement for Site Plan approval. The Planning Board may grant a waiver of the requirement to obtain Site Plan approval in the circumstances described below. No public hearing shall be required on an application for a waiver of the requirement for Site Plan approval.

10.4.3.1 For any application for the construction, modification or alteration of a Building or Structure where such construction, modification or alteration

does not exceed 500 square feet of Floor Area or Development Coverage in the OB, R-160, R-80, R-40 and R-30 Zoning Districts or 350 square feet of Floor Area or Development Coverage in all other districts, provided that the Planning Board finds that the proposed change will not cause any negative impacts to the surrounding community and that the improvements are consistent in design and scale with the existing improvements on the Lot.

10.4.3.2 For any application for Site Plan approval submitted in connection with a Special Use Permit Renewal application in which the applicant can demonstrate that the Use and configuration of the Lot are in substantial compliance with the Site Plan previously approved by the Planning Board.

10.4.3.3 For any application to reissue a Site Plan approval that has lapsed in the preceding 3 months provided that there have not been any changes to the previously approved plan or surrounding neighborhood conditions.

10.4.3.4 For any application to modify a Site Plan that has been approved by the Planning Board in the preceding 12 months if the Planning Board finds that the proposed modification: (i) is minor in nature; (ii) does not increase the Floor Area of the Principal Building by more than 5 percent or the Development Coverage on the Lot by more than 5 percent; (iii) does not require the grant of new variances; (iv) will not cause any negative impacts to the surrounding community; and (v) is consistent in design and scale with the previously approved Site Plan.

10.4.3.5 In the granting of any Site Plan waiver, the Planning Board may impose Conditions as provided in Section 10.2.9.

g. The text of Section 10.5.17 shall be deleted and replaced with the following text:

“A zoning compliance table listing, at a minimum, the proposed Use of the Lot and the permitted/required and proposed: Lot Area, Net Lot Area, Required Yards, Setbacks of Buildings and Structures, Building Height, Grade Plane, Building Coverage, Development Coverage, Floor Area of all Buildings, Floor Area Ratio, number of Parking Spaces and Loading Spaces and any other dimensional or Bulk requirements that apply to the subject Lot. If variances from the Bulk requirements were previously granted by the ZBA the date, case number and extent of such variances shall be included in the zoning compliance table”

h. Section 10.6.14.7 shall be amended to delete the words “Within any required landscaping buffer area”.

- i. A new Section 10.6.15 shall be added which shall provide as follows:

“Where the permanent alteration of any Steep Slope is proposed, the Planning Board shall consider the appropriate factors provided in Section 6.7.1 in determining whether and to what extent such alteration is permitted.”

**9. AMENDMENTS TO SECTION 15: WIRELESS TELECOMMUNICATION FACILITIES.**

- a. Section 15.7.1 shall be amended to include the following text after the word “following”: “in the number of sets to be determined by the Code Enforcement Official on the application form:”
- b. Section 15.7.1.1 shall be amended to delete the following text: “(at least 2 copies)”
- c. Section 15.7.1.2 shall be amended to delete the following text: “(at least 2 copies)”
- d. Section 15.7.1.4 shall be amended to delete the following text: “(at least 11 copies)”
- e. Section 15.7.1.5 shall be amended to delete the following text: “(at least 11 copies, signed and sealed; one copy submitted in an electronic format)”
- f. Section 15.7.1.6 shall be amended to delete the following text: “(at least 11 copies, signed and sealed; one copy submitted in an electronic format)”
- g. Section 15.7.1.7 shall be amended to delete the following text: “(at least 2 copies)”
- h. Section 15.7.1.8 shall be amended to delete the following text: “(at least 6 copies)”
- i. Section 15.7.1.9 shall be amended to delete the following text: “(at least 11 copies)”
- j. Section 15.7.1.10 shall be amended to delete the following text: “(at least 2 copies)”

**10. AMENDMENTS TO USE TABLE.**

- a. The text of Column 4 (Permitted Accessory Uses), Row 1 (R-160 Residential-Conservation District) shall be deleted and replaced with the following text:

“Sheds” that meet the requirement of Section 6.5.

Private Accessory Buildings or Structures not over 15 feet in height and limited to 800 square feet in area. Dwelling Units are prohibited in Accessory Structures or Accessory Buildings.\*

Private tennis courts, sports courts, or Swimming Pools subject to Sections 6.9 or 6.10 as appropriate.\*

Parking for 1 commercial vehicle or Recreational Vehicle, or storage of 1 boat subject to the requirements and limitations of Section 6.1.2.2.

Off-street parking subject to Section 6.1.

The keeping of a reasonable number of Customary Pets.

Keeping of Animals, subject to the issuance of a Special Use Permit (*see* Section 9, and Section 9.6.20)\*

Roof-mounted Solar Energy Collectors installed for the primary purpose of providing electricity to the Lot on which they are installed subject to review and approval by the ARB.

Ground-mounted Solar Energy Collectors installed for the primary purpose of providing electricity to the Lot on which they are installed provided that they may not be installed in the Front Building Setback or in any Required Side or Rear Yard and shall comply with all other applicable Bulk restrictions.\*

Signs subject to section 6.2.”

- b. Add the following text to Column 4 (Permitted Accessory Uses), Row 9 (VC Village Center District): “The keeping of a reasonable number of Customary Pets.”
- c. Delete the following text from Column 1 (Permitted Principal Uses), Row 10 (OB Office Business District): ““Self-Storage Facilities” and Warehouses”
- d. Add the following text to Column 2 (Special Permit Uses), Row 10 (OB Office Business District): ““Self-Storage Facilities” subject to Section 9.6.21” and “Warehouses” subject to Section 9.6.21”.

## **11. AMENDMENTS TO PARKING TABLE.**

- a. The following text shall be added after the existing text in Column 2 in the row for “Self-Storage Facility”: “A parking utilization study must be submitted to the Planning Board in support of all applications for a Self-Storage Facility. The minimum number of parking spaces to be required on the site may be increased by the Planning Board if such study shows a demand for parking that exceeds 0.5 spaces per 1,000 sf of Floor Area.”
- b. The following text shall be added after the existing text in Column 2 in the row for “Warehouse”: “A parking utilization study must be submitted to the Planning Board in support of all applications for a Warehouse. The minimum number of parking spaces to be required on the site may be increased by the Planning Board if such study shows a demand for parking that exceeds 0.5 spaces per 1,000 sf of Floor Area.”
- c. The definition of “Floor Area” in Note 2 shall be deleted and the revised definition of “Floor Area” shall be added in its place.



**12. AMENDMENT TO BULK TABLE.**

- a. Internal section references in the Bulk Table shall be updated to reflect revisions affecting section numbering.

**SECTION 3. SEVERABILITY.**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

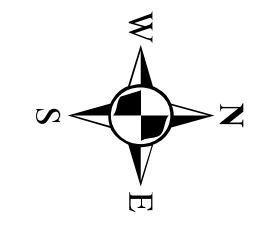
**SECTION 4. WHEN EFFECTIVE.**

This Local Law shall take effect immediately upon the filing with the Secretary of State.

DRAFT


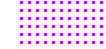
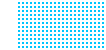





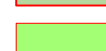
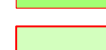
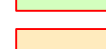


**SCHEDULE A- AMENDED ZONING MAP**

A ————— A

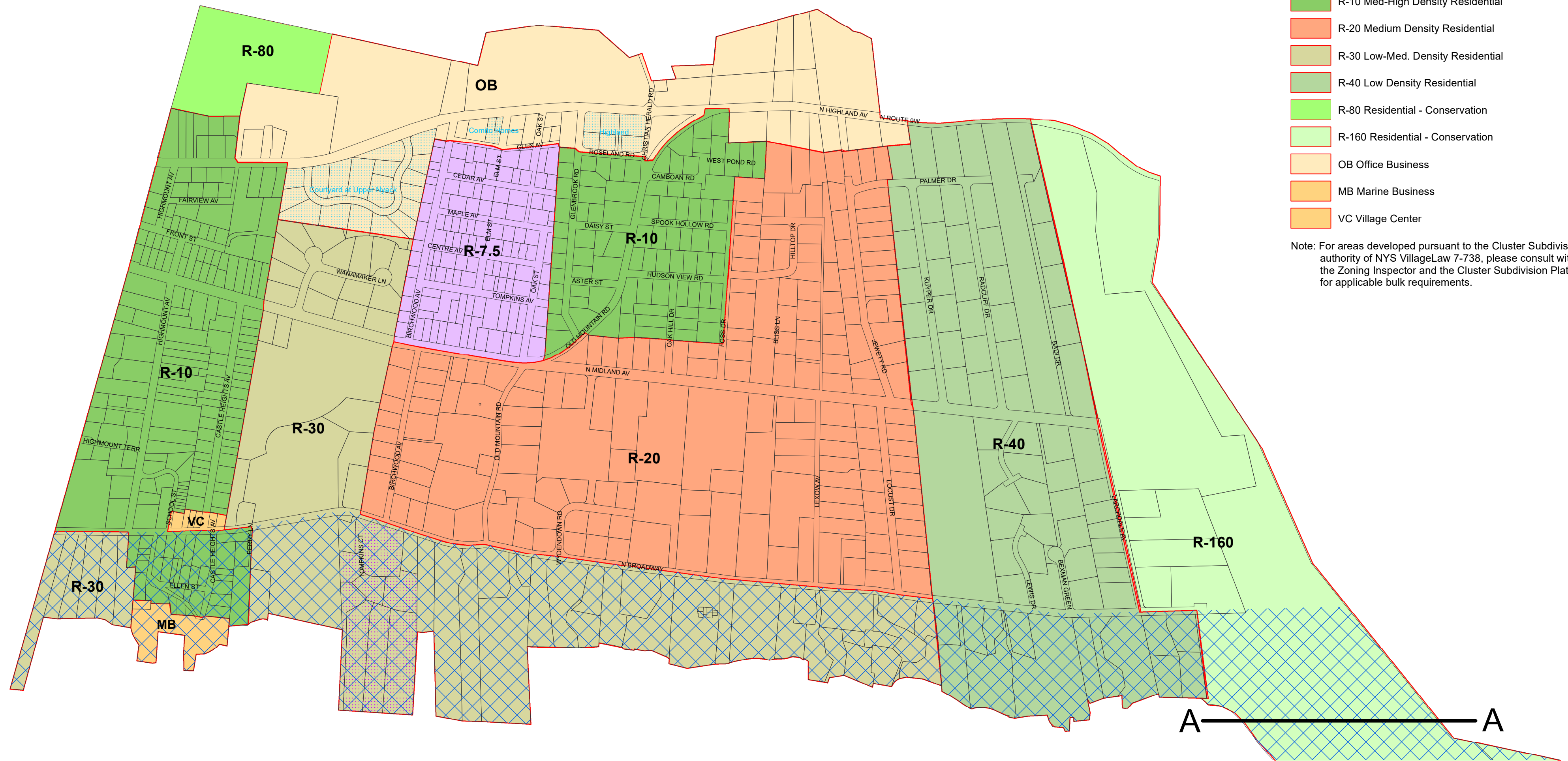


1 inch = 500 feet

**Legend**

-  Hudson Riverfront Overlay
-  Cluster Subdivision
-  OB Residential Overlay
-  R-7.5 High-Density Residential
-  R-10 Med-High Density Residential
-  R-20 Medium Density Residential
-  R-30 Low-Med. Density Residential
-  R-40 Low Density Residential
-  R-80 Residential - Conservation
-  R-160 Residential - Conservation
-  OB Office Business
-  MB Marine Business
-  VC Village Center

Note: For areas developed pursuant to the Cluster Subdivision authority of NYS Village Law 7-738, please consult with the Zoning Inspector and the Cluster Subdivision Plat for applicable bulk requirements.



A ————— A

**OFFICIAL ZONING MAP**  
 Village of Upper Nyack, New York  
 Upper Nyack Zoning Local Law 5-2022, Section 3.2  
 Adopted: February 10, 2022

REVISIONS	DATE	DESCRIPTION	BY
	05/19/2022	ADDED TAX PARCEL	DML
	01/12/2023	ADDED CLUSTER SUBDIVISION	DML