

**RESOLUTION OF THE BOARD OF TRUSTEES OF THE VILLAGE OF
UPPER NYACK ADOPTING LOCAL LAW 1 OF 2023 AMENDING THE
VILLAGE OF UPPER NYACK ZONING LAW**

WHEREAS, the Board of Trustees of the Village of Upper Nyack (the “Board of Trustees”) is the duly elected legislative body of the Village of Upper Nyack and is authorized to adopt Local Laws; and

WHEREAS, proposed Local Law # 1 of 2023, a local law amending the Village’s 2022 Zoning Law (the “Local Law”), was introduced to the Board of Trustees at its November 19, 2022 meeting; and

WHEREAS, the text of the Local Law was posted to the Village’s website and was made available to the public in the Village Clerk’s office; and

WHEREAS, the Local Law was referred to the Rockland County Department of Planning pursuant to General Municipal Law Section 239-m on or around December 6, 2022; and

WHEREAS, on or around December 6, 2022, copies of the Local Law were circulated to the Palisades Interstate Park Commission, the New York State Department of Transportation, the New York-New Jersey Trail Conference, the Village of Nyack Housing Authority, the Town of Clarkstown and the Village of Nyack; and

WHEREAS, by letter dated January 10, 2023 the Rockland County Department of Planning provided six comments on the Local Law; and

WHEREAS, a duly noticed public hearing on the Local Law was opened on January 19, 2023; and

WHEREAS, at the January 19th session of the public hearing the Village’s land use counsel provided an overview of the proposed changes to the Zoning Law, the Village Engineer provided information about the condition of steep slopes in the Village and the changes to the steep slopes regulations in the Local Law, and the Board members reviewed the Local Law, agency and public comments; and

WHEREAS, with regard to the Rockland County Department of Planning’s January 10, 2023 comments, the Local Law has been revised in accordance with Comment Number 5, and the Board of Trustees hereby OVERRIDES comments 1, 2, 3, 4, and 6 for the following reasons:

1. The Board of Trustees hereby OVERRIDES Comment Nos. 1, 2, 3, and 4 which pertain to the modification to Zoning Law §6.7, Steep Slopes. The proposed changes to the Steep Slopes provision do not materially alter the permitted extent of disturbance to Steep Slopes within the Village. Although certain slopes disturbance activities are nominally prohibited in the current law, they may be (and over the course of the past year, have been) permitted with an area variance granted by the Zoning Board of Appeals. The revised Section 6.7.2 mandates site plan approval as a prerequisite to all permanent slopes disturbance and gives the Planning Board the

discretion to permit slopes disturbance if the stated standard, which incorporates the most meaningful portions of the area variance standard (the requirement that the disturbance be the minimum necessary and that other alternatives be explored), are met. The Village Engineer reviews each site plan application submitted to the Planning Board ensuring that the Planning Board has professional guidance to evaluate and understand the extent and implications of slopes disturbance. Moreover, the Village's existing Stormwater Management Law provides a low threshold for the preparation of a stormwater pollution prevention plan for land disturbance activities that occur on steep slopes. The proposed review process for slopes disturbance continues to provide a comparable level of slopes protection to the current zoning law, but consolidates the review authority in the Planning Board to provide a more efficient process for applicants. It also enables a more streamlined regulatory path to improve the condition of steep slopes that have become deteriorated and potentially unstable over time. As explained by the Village Engineer at the January 19th hearing, certain slopes areas within the Village, particularly those along the Hudson River waterfront are not naturally occurring and in places are deteriorating due to lack of maintenance. The revised Section 6.7 will make it easier for the Planning Board to allow alterations to deteriorating slopes that will improve their condition.

2. The Board of Trustees hereby OVERRIDES Comment No. 6 and elects to keep the reasonableness standard for the keeping of customary household pets. Limiting the number of pets to a set number does not consider the nuances such as the size of the lot, the configuration of the property, the size, breed and characteristics of the pets kept and other similar attributes and would result in a provision that could be too restrictive in certain circumstances and too permissive in others. Therefore, the reasonableness standard is preferable.

WHEREAS, also at the January 19th session of the Public Hearing, the Board of Trustees, as the only involved agency under the New York State Environmental Quality Review Act, reviewed the Full Environmental Assessment Form Parts 1, 2 and 3 for the Local Law along with the repeal of General Ordinance 5.13 and adopted a Negative Declaration of Environmental Significance for the proposed Action under SEQRA; and

WHEREAS, at the January 19th session of the Public Hearing the Board adjourned the hearing to the Board's meeting of February 16, 2023 and directed its counsel to make certain modifications to the Local Law; and

WHEREAS, the Local Law in final form was placed on the table of the members of the Board of Trustees and sent to the Trustees by electronic mail on February 6, 2023; and

WHEREAS, the duly noticed public hearing was continued at the Board's February 16, 2023 meeting; and

WHEREAS, on February 16th the public hearing was continued and all who wished to comment on the Local Law were afforded the opportunity to do so and the public hearing was closed; and

WHEREAS, the Board of Trustees finds that the adoption of the Local Law is in the best interest of the Village.

NOW THEREFORE, BASED ON ALL OF THE INFORMATION BEFORE THE BOARD, BE IT RESOLVED THAT, the Board of Trustees of the Village of Upper Nyack hereby adopts Local Law #1 of 2023; and

RESOLVED FURTHER, that the Village Clerk shall enter said local law in the minutes of this meeting, shall cause the local law to be filed with the New York State Department of State and shall take all other actions necessary to comply with all other notice and filing requirements of applicable laws.