

**VILLAGE OF HIGHLAND FALLS
INTRODUCTORY LOCAL LAW
AMENDMENT TO ZONING LAW TO REMOVE ‘CONDOMINIUM’ AS A USE**

BE IT ENACTED by the Village Board of Trustees of the Village of Highland Falls, County of Orange, State of New York, as follows:

Section 1. Legislative Findings, Purpose and intent.

The Village of Highland Falls Board of Trustees hereby finds and determines that the authority vested in the Board of Trustees by Village Law § 7-700 to regulate property within the Village and to enact zoning and planning laws to protect the health and safety of Village residents pursuant to that authority does not authorize the Board of Trustees regulate the form of ownership of property within the Village, specifically the form of ownership known as “condominium,” which ownership is regulated pursuant to Article 9-B of the New York State Real Property Law.

The Village of Highland Falls Board of Trustees also finds and determines that the density and building height regulations permitted in certain special exception uses is inconsistent with the Comprehensive Plan in that it allows greater residential density than contemplated by the Plan.

Section 2. Authority.

This local law is enacted by the Village Board of Trustees of the Village of Highland Falls pursuant to its authority to adopt local laws under the New York State Constitution and Section 10 of the Municipal Home Rule Law.

Section 3. Scope.

This local law shall apply to all applications for land use approvals including, but not limited to, subdivision, site plan, special use permit, change of use, lot line adjustment and variance applications, with the exception of any land use application that has been granted a Negative Declaration pursuant to the State Environmental Quality Review Act, or a site plan application that has received a final approval, or a land subdivision application that has been granted a preliminary or final approval.

Section 4. Section 240-4, titled “Definitions,” of Chapter 240 of the Code of the Village of Highland Falls is hereby amended by deleting the definition “Multiple Dwelling – An apartment building or condominium development,” in its entirety.

Section 5. Section 240-6, titled “Classes of districts,” of Chapter 240 of the Code of the Village of Highland Falls is hereby amended by deleting subsections A(5) and A(6) and replacing them with new subsections as follows:

A(5) R-5 District, Apartment and Multiple-Dwelling Residence.

A(6) R-5A District, Apartment, Multiple-Dwelling and Affordable Housing.

Section 6. Subsection L of Section 240-29, titled “Multiple dwelling,” of Chapter 240 of the Code of the Village of Highland Falls is hereby deleted in its entirety and all subsequent subsections are re-alphabetized accordingly.

Section 7. Subsection P¹ of Section 240-29, titled “Planned residential development,” of Chapter 240 of the Code of the Village of Highland Falls is hereby amended as follows:

Subdivision 2 is deleted in its entirety and replaced with the following:

Residential dwelling units may be in single-family, two family or multiple dwelling structures, provided that the total number of dwelling units shall not exceed 2.4 per gross acre in the R-1 and R-2 Districts, 5.7 per gross acre in the R-3 District, and 8.7 units per gross acre in the R-4 District, and further provided that the minimum yard provisions and, in the case of a multiple dwelling the minimum spacing between buildings, shall not be less than those required:

- (a) In an R-2, R-2 and R-3 Residence District for a single-family dwelling.
- (b) In an R-4 Residence District for a two-family dwelling.
- (c) In an R-5 Residence District for a multiple dwelling.

Townhouse development as set forth in Section 240-29S² and Section 240-29U³ is not permitted in a planned residential development.

The first sentence of subdivision 4 is deleted in its entirety and replaced with:

In an R-4 District and R-5 District, on sites of one acre or more in area new multiple-dwelling buildings may be permitted to have a maximum height of 35 feet, provided that it shall be determined that the resulting building:

Section 8. Subsection S of Section 240-29, titled “Condominium development,” of Chapter 240 of the Code of the Village of Highland Falls is hereby deleted in its entirety and replaced with a new Subsection R as follows:

¹ Prior Subsection “Q”.

² Prior Subsection “T”.

³ Prior Subsection “V”.

R.⁴ Multiple dwelling buildings.

1. Particular attention shall be given to the adequacy of access to the site and to the buildings and off-street parking areas.
2. The siting of the building and relating grading of the site shall not be such as to create hazardous conditions with respect to adjacent properties, or to cause increased stormwater runoff across such properties without a mutually agreed drainage system that is also satisfactory to the municipality.
3. The minimum floor area of each apartment shall be 900 square feet.
4. Maximum lot coverage by a building or buildings (exclusive of patios, driveways and parking areas shall not exceed 35%.
5. Maximum density shall not exceed eight point seven (8.7) dwelling units per acre.
6. Minimum horizontal distance between buildings shall be 20 feet or 2/3 the height of the higher building, whichever is greater.
7. Multiple dwelling unit buildings shall be offset every 40 feet of building length; provided, however, that the Planning Board may waive this requirement if the elevations of the units create sufficient visual distinction.
8. Common areas and proper maintenance thereof shall be required pursuant to conditions imposed by the Planning Board during the site plan approval process.
9. All multiple dwelling unit development projects are subject to site plan review by the Planning Board.

Section 9. The Table of Use Regulations of Chapter 240 of the Code of the Village of Highland Falls is hereby amended as follows:

240 Attachment 1, titled, "RESIDENCE DISTRICTS: TABLE OF USE REGULATIONS," is hereby amended as follows:

Column 1, titled "Use Classifications," of Attachment 1:1, is amended to delete the use enumerated as "Condominium development," in its entirety from column 1 of the Table.

⁴Prior Subsection "S".

Column R-5 of Attachments 1:1, 1:2, and 1:3 is amended to delete the words “and Condominium” from the column heading.

Column R-5A of Attachments 1:1, 1:2, and 1:3 is amended to delete the words “and Condominium” from the column heading.

Section 10. The Table of Dimensional Regulations of Chapter 240 of the Code of the Village of Highland Falls is hereby amended as follows:

240 Attachment 2, titled, “RESIDENCE DISTRICTS: TABLE OF DIMENSIONAL REGULATIONS,” is deleted in its entirety and replaced with the table of the same title attached hereto.

Section 11. Supersession, of Inconsistent Laws, if any.

The Village Board hereby declares its legislative intent to supersede any provision of any local law, rule, or regulation and any provision of the state Village Law or other special law that may be declared inconsistent or in conflict with this local law. The state law provisions that shall be, and hereby are, superseded include, but are not limited to, Village Law § 7-725-a, § 7-725-b, and any other provision of law that the Village may supersede pursuant to the state Municipal Home Rule Law and the Constitution of the State of New York. The courts are specifically requested to take notice of this legislative intent and apply such intent in the event the Village has failed to specify any provision of law that may require supersession. The Village Board hereby declares that it would have enacted this local law and superseded such provision had it been apparent.

Section 12. Severability.

If any section, part or provision of this local law or the application thereof to any person, property or circumstance is adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the section, part, provision or application directly and expressly adjudged invalid and shall not affect or impair the validity of the remainder of this local law or the application thereof,

Section 13. Effective Date.

This local law shall take effect immediately upon filing with the Secretary of State.