

Local Law 4 – 2024  
Adopted 8/5/2024  
Filed

A local law amending and restating Article VII of Chapter 138 of the Village Code, which article provides specific zoning provisions for the Residence D zoning district.

**Section One.** Legislative Intent. The Board of Trustees seeks to assure the stability, sustainability and short and long-term growth and preservation of the Village. The name “Sea Cliff” identifies two of the most important natural resources in the Village, the “sea” and the “cliff”, protection of which is paramount to assure sustainable long-term conservation. Various studies have been conducted including the Village’s 2023 adopted Comprehensive Plan, the Town of Oyster Bay Private Golf Course Planning Study, the Harbor Management Plan for Hempstead Harbor, and numerous other studies, all of which have pointed to varying degrees of the importance of providing enhanced preservation and protection measures for the Village’s environmental, open space and natural resources as key to the preservation of the Village’s residential neighborhoods. These studies demonstrate that additional protections are warranted to reduce adverse impacts resulting from density of residential developments in the Village, while providing an appropriate balance. The Village is particularly vulnerable because of its coastal location, cliffside location, topography and various projections of future floodplain changes that will continue to impact areas immediately adjacent to Hempstead Harbor and areas that currently lay further inland. It is imperative that zoning and other regulations mitigate impacts on infrastructure, public services, traffic congestion, flooding and environmental, natural, ecological and visual resources. Further degradation to these impacts continues to arise from climate change, more frequent and intense storms, inland flooding, and development projects in surrounding communities. Higher density development also will negatively impact one of the unique charms in Sea Cliff – it’s private beach, which has become even more popular for residents since the 2020 pandemic. Further development of current open space and undeveloped areas with higher density development will negatively affect all of the aforesaid resources. Moreover, providing for development consistent with adjoining municipalities where the impacts are defined by the potential development consequences and not municipal boundaries would be consistent with the neighborhood character.

The Board finds that increasing the minimum lot size from ½ acre to 2 acres will reduce overall development density, mitigating impacts on infrastructure, public services and traffic congestion, and will preserve more open space and promote environmental benefits as described in the preceding paragraph.

**Section two.** Chapter 150, Article VII, is hereby amended, to read as follows:

## **Article VII Residence D District**

### **§ 138-701 Permitted uses.**

No structure shall be erected or used and no premises shall be used except for:

- A. One of the permitted uses for which property may be used in the Residence A District, subject to such site plan approval as may be provided for therein.
- B. A membership or public golf club, country club, swimming club, or summer theater, subject to the following:
  - i. On a site no smaller than 50 acres,
  - ii. No structure shall be closer than 200 feet from a property line, and
  - iii. Access is provided by a public roadway with a paved width of at least 40 feet, providing for 2-way traffic and a minimum of 4 travel lanes.

**§ 138-702 Special permit uses/Procedures.**

No structure shall be erected or used and no premises shall be used for one of the following uses until a special permit is obtained as provided in Article XIV herein:

- A. A use permitted as a special permit use in the Residence A District, and
- B. A recreation area for tennis courts, handball courts, badminton courts, archery courts, athletic exercise facilities or similar individual or small-group recreation facilities, subject to the following:
  - i. The facilities shall be no closer than 300 feet from a property line;
  - ii. There shall be no lighting for outdoor active recreational facilities, which facilities shall be used only during daylight hours. Lighting for other purposes shall comply with the lighting requirements in the Village Code;
  - iii. The premises shall abut a public right-of-way for a minimum of 40 feet for access of emergency and maintenance vehicles;
  - iv. Parking shall be provided as determined necessary by the Village;
  - v. Active recreation areas shall be located such that the use of the recreation facilities will not be a nuisance to the residents of nearby residential properties;
  - vi. Adequate buffering shall be constructed or installed to separate recreation facilities from residential properties; and
  - vii. No portion of the active recreation facilities shall be located on any portion of the property excluded from lot area calculations.

**§ 138-703 Mixed or combined uses prohibited.**

There shall be only one permitted use on each lot meeting the minimum lot size requirements of § 138-704 of this chapter. The mixing or combining of uses within a single building is specifically prohibited.

**§ 138-704 Minimum lot size requirements.**

Except as otherwise provided in this article, no building shall be erected on a lot containing a lot area of less than 2 acres (87,120 sq ft), nor shall more than one principal building be erected on each 2 acres (87,120 sq ft) of such lot.

**§ 138-705 Maximum lot coverage.**

Lot coverage shall not exceed 10% of the lot area.

**§ 138-706 Minimum front property line requirements.**

No building shall be erected on any lot having a front property line of less than 250 feet.

**§ 138-707 Minimum lot width requirements.**

No building shall be erected on any lot which has a width at any point less than 90% of the length of the front property line, unless the area of such lot meets the minimum lot size requirements of this article. In computing such area, no part of the lot which falls within the boundaries of the substandard width shall be included.

**§ 138-708 Minimum setback requirements.**

Except as otherwise provided in this article, every part of principal building shall be set back from the front property line of the lot upon which it is situated at least 50 feet.

**§ 138-709 Minimum lot width at setback line requirements.**

No building shall be erected on any lot having a width at the setback line which is less than the minimum front property line required by § 138-706 of this chapter.

**§ 138-710 Corner lots.**

Buildings erected on corner lots shall comply with the minimum front property line and front property line setback requirements for each street upon which the lot abuts.

**§ 138-711 Minimum side yard requirements.**

Except as otherwise provided in this article, no building shall be erected on any lot containing a side yard less than 35 feet in width.

**§ 138-712 Minimum rear yard requirements.**

Except as otherwise provided in this article, no principal building shall be erected on any lot containing a rear yard less than 50 feet in depth.

**§ 138-713 Height restrictions.**

No building, or any addition to a building, hereafter erected shall exceed a height to the ridgeline as follows:

- A. Flat, shed and mansard roofs: 28 feet.
- B. Gable, hip and gambrel roofs: 30 feet.

**§ 138-713.1 Height/setback ratio restrictions.**

No part of the principal building, other than chimneys, turrets, cupolas, spires, belfries and other minor architectural features, including but not limited to minor domes, skylights, dormer windows and other ornamental features, shall extend above the height/setback ratio plane.

**§ 138-714 Minimum gross floor area requirements.**

No principal building shall be erected unless it has a minimum gross floor area on the first floor of 2,000 square feet, except that a principal building consisting of more than one story in height may have a minimum gross floor area on the first floor of not less than 1,200 square feet if the second floor has access from the first floor by a permanent interior stairway. For purposes of this section, in computing minimum gross floor area, unfinished attics, cellars, basements, garages and rooms for heating equipment shall not be included.

**§ 138-714.1 Maximum floor area ratio restrictions.**

- A. No building shall be hereafter erected or altered where the floor area ratio (the total proposed floor area of all buildings on the lot divided by the actual square foot area of the lot) will exceed the following maximums:

<b>Area of Lot (square feet)</b>	<b>Maximum FAR</b>
Up to 2,400	50%
2,401 to 3,600	44%
3,601 to 4,800	38%
4,801 to 7,200	33%
7,201 to 9,600	31%
9,601 to 12,500	27%
12,501 to 15,000	25%
15,001 to 17,500	23%
17,501 to 20,000	21%

<b>Area of Lot (square feet)</b>	<b>Maximum FAR</b>
20,001 to 25,000	19%
25,001 to 30,000	17%
30,001 to 40,000	15%
40,001 upward	10%

- B. Notwithstanding the maximum floor area ratio permitted by each category of lot area, a building may be hereafter erected or altered which exceeds the maximum floor area ratio permitted, provided the floor areas of all buildings on the lot do not exceed the maximum total floor area permitted for the preceding (smaller) category. [Example: on a parcel that is 3,700 square feet parcel, the total floor areas of all buildings on the lot is limited to 1,406 square feet (3,700 X 38%) using the chart in Subsection A. Pursuant to Subsection B, buildings having a total floor area of 1,500 square feet would be permitted, because, even though the FAR exceeds 38% ( $1,500 \div 3,700 = 41\%$ ), the total floor area of all buildings on the lot do not exceed 1,584 square feet, the maximum total floor area permitted in the preceding (smaller) category of 2,401 to 3,600 ( $3,600 \times 44\% = 1,584$ ). Subsection B only applies when the maximum floor area ratio permitted by a category is exceeded; if the FAR is not exceeded, the total floor area of all buildings on a lot in the 3,601 to 4,800 category could exceed 1,584 square feet ( $4,800 \times 38\% = 1,824$ ). In addition, the exception permitted by Subsection B is limited to the maximum total floor area permitted in the preceding (smaller) category.

**§ 138-715 Dwelling unit limitations.**

No building hereafter erected in the Residence D District shall contain more than one dwelling unit.

**§ 138-716 Accessory buildings.**

In addition to the requirements heretofore imposed, the following additional restrictions are placed on the erection of accessory buildings:

- A. No accessory building shall be erected in any front yard. A porch constructed or existing in the front yard and connected to the front wall of the principal building shall be excluded from this Subsection A unless such porch is heated or air conditioned by mechanical means.
- B. Except as otherwise provided in this article, an accessory building erected in a side yard shall be located at least 25 feet from the side property line of the lot.
- C. Except as otherwise provided in this article, an accessory building erected in a rear yard shall be located at least 20 feet from the rear property line and at least 25 feet from the side property line of the lot.

- D. The maximum gross floor area of an accessory building shall be 500 square feet.
- E. An accessory building shall not exceed a height of 15 feet.
- F. Only one accessory building having a gross floor area in excess of 500 square feet and a height of eight feet shall be permitted on a lot. Construction or replacement of three or more accessory buildings on a lot shall be permitted only upon application to and issuance of a variance by the Zoning Board of Appeals. For purposes of this Subsection F, air conditioner condenser units shall not be deemed accessory buildings
- G. In addition to compliance with the minimum setback provisions, all generators shall be not less than 30 feet from any habitable structure on an adjoining parcel.

**§ 138-717 Permitted encroachments.**

- A. The following encroachments shall be permitted into front yards:
  - (1) Cornices, eaves, gutters, chimneys or bay windows projecting not more than 24 inches into such yard.
  - (2) Steps or stairs connected to the primary structure or attached porch, projecting not more than four feet into the required setback from the front property line.
- B. The above encroachments shall also be permitted into rear yards, and in addition thereto the following encroachments shall be permitted:
  - (1) Air-conditioner compressors projecting not more than four feet into such rear yard.
- C. The above encroachments shall also be permitted into side yards; provided, however, that an encroaching air-conditioner compressor shall be screened from view by appropriate fencing or shrubbery.
- D. Subject to compliance with other applicable provisions in Chapter 138, stairs, steps and passageways, not more than four feet in width, providing or enabling access to a building or permitted structure may be located within a front yard.

**§ 138-718 Parking requirements.**

Parking requirements are contained in Article X.

**§ 138-719 Impervious coverage.**

- A. The Village seeks to combat increasing stormwater concerns, increased runoff from existing development, and impacts from the transportation of lawn chemicals into roadways, other properties and waterways. The Village is cognizant of flooding, erosion, degraded waterways, and recent damage to private properties in the Village. Impervious structures contribute to these impacts. The Village hereby adopts regulations intended to mitigate these concerns and potential impacts from additional impervious coverage.
- B. The construction, creation, alteration, modification or replacement of any impervious structure or structures in excess of 100 square feet requires an on-site drainage system in

continuous working order consistent with its design, to retain a five-inch rainfall over a twenty-four-hour period. For situations where on-site retention is technically not feasible, as demonstrated to the satisfaction of the Building Department, the drainage system on-site retention requirement may be reduced to a three-inch rainfall over a twenty-four-hour period.

- C. Except when otherwise permitted pursuant to this chapter to provide for vehicular access to a roadway, no impervious structure may be located closer than five feet from a property line or the minimum setback required for such impervious structure, whichever is greater.
- D. Regardless of whether Subsection B applies to an impervious structure, all impervious structures shall be designed and installed in a manner to reduce the generation of water runoff volume and velocity to roadways and/or adjoining properties.
- E. The maximum permitted site coverage for impervious structures shall be calculated based on the following table:

<b>Maximum Permitted Impervious Coverage</b>		
<b>Lot Area</b>	<b>For Base Lot Area</b>	<b>For Lot Area Over Base Lot Area</b>
<b>(square feet)</b>	<b>(square feet)<sup>1</sup></b>	<b>(percent)</b>
0 to 4,000	0	55%
4,001 to 6,000	2,200	35%
6,001 to 12,000	2,900	27%
12,001 to 16,000	4,520	26%
16,001 to 20,000	5,560	25%
20,001 to 30,000	6,560	24%
30,001 to 40,000	8,960	23%
40,001 and larger	11,260	22%

NOTE:

<sup>1</sup> "Base lot area" is the minimum end of the lot area range in the "Lot Area" column.

**Section three.** Any local law or provision of the Code of the Village of Sea Cliff in conflict with this local law is hereby repealed to the extent of such conflict, except that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of such local law, ordinance or resolution prior to the effective date of this local law.

**Section four.** If any clause, sentence, paragraph, section, article, or part of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

**Section five.** This local law shall take effect immediately upon adoption and filing pursuant to the Municipal Home Rule Law.