

**BOROUGH OF UPPER SADDLE RIVER
ORDINANCE # 13-20**

**AN ORDINANCE TO AMEND AND SUPPLEMENT CHAPTER 150, ZONING, OF THE
BOROUGH OF UPPER SADDLE RIVER, BERGEN COUNTY, NEW JERSEY, TO
ESTABLISH A NEW OVERLAY 3 (OL-3) ZONE**

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Upper Saddle River, Bergen County, New Jersey, that amendments set forth below are made to Chapter 150, “Zoning,” of the Code of the Borough of Upper Saddle River as follows:

Section 1. Section 150-6 of Chapter 150, Zoning, of the Code of the Borough of Upper Saddle River entitled “Establishment of Districts” is hereby amended to include the following new zone district:

OL-3 Overlay 3 Zone

Section 2. Section 150-7 of Chapter 150, Zoning, of the Code of the Borough of Upper Saddle River entitled “District Boundaries” is hereby amended and supplemented as follows:

150-7.H. Overlay Zone Districts.

- (1) OL-3 District: Block 1304 Lot 7.01 consisting of approximately 2 acres as shown on the Borough of Upper Saddle River Zoning Map.

Section 3. The Zoning Map of the Borough of Upper Saddle River is hereby amended to include a new OL-3 Overlay 3 Zone encompassing Block 1304 Lot 7.01, and which shall retain the underlying H-1R zoning designation of that parcel.

Section 4. Article III, Use Regulations, of Chapter 150, Zoning, of the Code of the Borough of Upper Saddle River is hereby amended and supplemented to include a new Section 150-10.11 entitled “OL-3 Overlay 3 District,” which shall read as follows:

150-10.11. OL-3 Overlay 3 Zone

- A. **Purpose.** The purpose of the OL-3 Overlay 3 Zone is to create a realistic opportunity for the construction of low and moderate-income multifamily housing at maximum densities as hereinafter specified, in a suitable location of the Borough of Upper Saddle River. This Overlay 3 Zone has been created to address a portion of the Borough’s fair share affordable housing obligation in accordance with the Fair Housing Act (“FHA”), applicable Council on Affordable Housing (“COAH”) regulations, Settlement Agreement entered into between the Borough and Fair Share Housing Center on January 23, 2020, the Borough’s Housing Element and Fair Share Plan, and any applicable order of the Court, including a Judgement of Compliance and Repose Order. Developers shall have the option of developing in accordance with the underlying zone standards.

B. **Principal permitted uses.** The following principal uses shall be permitted in the OL-3 Overlay 3 Zone:

- (1) Inclusionary townhouse and multifamily development.

C. **Accessory uses.** The following accessory uses shall be permitted in the OL-3 Overlay 3 Zone:

- (1) Private indoor recreation and community rooms and facilities to be used exclusively by the residents of the development.
- (2) Leasing/management office to be used exclusively for the residential component of the development.
- (3) Roof mounted solar panels and equipment. Ground mounted solar panels shall be prohibited.
- (4) Green roofs.
- (5) Rooftop amenities to be used exclusively by the residents of the development.
- (6) Electric vehicle (EV) charging equipment.
- (7) Signs as otherwise regulated in the Borough Ordinances.
- (8) Fences and Walls as otherwise regulated in the Borough Ordinances.
- (9) Trash and recycling facilities as otherwise regulated in the Borough Ordinances.
- (10) Non-commercial swimming pools and associated equipment to be used exclusively by the residents of the development.
- (11) Private garages and off-street parking for private vehicles, excluding recreational vehicles, trailers, boats and commercial vehicles.
- (12) Accessory uses customarily incidental and subordinate to multifamily development.

Section 5. Article IV, Bulk and Parking Regulations, of Chapter 150, Zoning, of the Code of the Borough of Upper Saddle River is hereby amended and supplemented to include a new Section 150-15.9 entitled “OL-3 Overlay 3 District,” which shall read as follows:

150-15.9. OL-3 Overlay 3 Zone.

A. **OL-3 Zone Bulk Requirements.**

The area and bulk requirements for development built in accordance with the OL-3 Overlay 3 Zone standards are set forth below. All other development shall comply with the underlying zone’s area and bulk regulations, which shall remain in full force and effect.

- (1) Minimum lot area: 1.75 acres
- (2) Maximum (gross) density: 15 units per acre
- (3) Minimum setbacks from external lots lines:
 - (a) Front Yard: 50 feet

- (b) Side Yard: 30 feet
- (c) Rear Yard 30 feet
- (4) Maximum building lot coverage: 40%
- (5) Maximum impervious lot coverage: 60%
- (6) Maximum principal building height 2 ½ stories/35 feet
 - (a) Appurtenances attached to the principal building including, but not limited to, antennas, chimneys, bulkheads, mechanical equipment, penthouses (not for human occupancy) and similar type features shall not exceed 12 feet in height and shall not occupy more than 15% of the total roof area. Pergolas for rooftop amenity spaces shall not exceed 10 feet in height. All roof mounted appurtenances shall have a minimum 10-foot setback from the parapet. Flat roofs shall have parapets of not less than 42 inches and not more than 48 inches or as may otherwise be required.
- (7) Minimum landscaped buffer areas:
 - (a) Front yard: 30 feet
 - (b) Side yard: 20 feet
 - (c) Rear yard: 20 feet
- (8) Accessory building setbacks and height limitations:
 - (a) Minimum distance from principal building: 20 feet
 - (b) Minimum distance to external lot lines: 40 feet
 - (c) No accessory buildings or structures are permitted in any front yard.
 - (d) Maximum accessory building height: 15 feet

B. OL-3 Zone Parking and Loading Requirements.

- (1) The minimum number of required off-street parking spaces in the OL-3 Zone shall be in accordance with Residential Site Improvement Standards (RSIS).
- (2) A minimum of one loading space shall be provided in accordance with Section 126-34 of the Borough Code.

Section 6. Article V, Supplementary Regulations, of Chapter 150, Zoning, of the Code of the Borough of Upper Saddle River is hereby amended and supplemented to include a new Section 150-19.5 entitled “OL-3 Overlay 3 District,” which shall read as follows:

150-19.5 OL-3 Overlay 3 District.

A. Affordable housing requirements.

- (1) All development constructed in accordance with the OL-3 Zone standards shall be required to provide a minimum affordable housing set-aside of 20%, regardless of whether units are for sale or for rent. When calculating the required number of

affordable units, any computation resulting in a fraction of a unit shall be rounded upwards to the next whole number.

- (2) All affordable units to be produced pursuant to this section shall comply with Chapter 63, Housing, Affordable, of the Borough Code, as may be amended and supplemented, the Uniform Housing Affordability Controls (“UHAC”) (N.J.A.C. 5:80-26.1 et seq.) or any successor regulation, the Borough’s Housing Element and Fair Share Plan, as may be amended from time to time, and any applicable order of the Court, including a Judgment of Compliance and Repose Order. These requirements include, but are not limited to the following:
 - (a) Low/Moderate Income Split: A maximum of fifty percent (50%) of the affordable units shall be moderate-income units and a minimum of fifty percent (50%) of the affordable units shall be low-income units. At least thirteen percent (13%) of all restricted rental units shall be very low-income units, which shall be counted as part of the required number of low-income units within the development.
 - (b) Bedroom Distribution: The following bedroom mix shall apply to affordable units:
 - [1] The combined number of efficiency and one-bedroom units shall be no greater than twenty percent (20%) of the total low- and moderate-income units;
 - [2] At least thirty percent (30%) of all low- and moderate-income units shall be two-bedroom units;
 - [3] At least twenty percent (20%) of all low- and moderate-income units shall be three-bedroom units; and
 - [4] The remaining units may be allocated among two and three-bedroom units at the discretion of the developer.
 - (c) Deed Restriction Period: All affordable units shall be deed restricted for a period of at least thirty (30) years from the date of the initial occupancy of each affordable unit (the “Deed-Restriction Period”). The affordability controls shall expire only after they are properly released by the Borough and/or the Borough’s Administrative Agent at the Borough’s sole option in accordance with N.J.A.C. 5:80-26.11 for rental units or N.J.A.C. 5:80-26.5 regulating for-sale units.
 - (d) Administrative Agent: All affordable units shall be administered by a qualified Administrative Agent paid for by the developer, which may or may not be the Borough’s Administrative Agent.

- (e) Other Affordable Housing Unit Requirements: Developers shall also comply with all of the other requirements of Chapter 63, Housing, Affordable, of the Borough Code including, but not limited to, provisions for (1) affirmative marketing requirements; (2) candidate qualification and screening requirements; (3) integrating the affordable units amongst the market rate units; and (4) unit phasing requirements. In any case where more than one principal building is developed, the affordable units shall be dispersed between all of the buildings on site. The exact locations and dimensions for each affordable unit shall be specified at the time of site plan application.

B. Design Requirements.

(1) Building Design.

- (a) Architectural design shall be compatible and consistent with existing development in the Borough of Upper Saddle River.
- (b) Buildings with expansive blank walls are prohibited.
- (c) Side and rear building elevations shall receive architectural treatments comparable to front building facades.
- (d) Each façade shall be designed to have a delineated floor line between the first level and upper floors.
- (e) Each building façade facing a public right-of-way shall have elements of vertical articulation no greater than 50 feet apart, minimally 1 foot deep. Such features may project a maximum of 18 inches into any required yard setback having a width not to exceed 10 feet.
- (f) Balconies above the first floor are encouraged and may extend a maximum of 4 feet into any required yard setback.
- (g) Flat roof areas not occupied by appurtenances or amenity space shall be constructed as a “cool roof” with solar reflectivity of 50% or greater as certified by the Cool Roof Rating Council.
- (h) Fire escapes are prohibited on front building facades, except where required by the Borough Fire Official.
- (i) Primary building entrances for multifamily uses shall be oriented facing a public right-of-way. Secondary side and rear entrances may also be provided.

(2) Parking

- (a) Off-street parking shall be prohibited in required front yards.
- (b) Surface parking outside of the principal building footprint shall have year-round screening with landscaping of minimally 3 feet in height where visible from the public right-of-way.
- (c) Parking areas within the principal building footprint shall have screening and architectural treatment consistent with the front building façade on all sides.

(3) Trash and Recycling

- (a) Trash and recycling shall be stored in a designated location within the principal building or enclosed accessory structure. Dumpster enclosures shall be prohibited in front yards and shall be screened with minimally 6-foot high solid fencing and/or walls with materials and colors that are consistent with the principal building.

(4) Equipment

- (a) All roof mounted equipment such as HVAC, air conditioning and ventilation units shall be screened from public view and located at least 10 feet from external building walls.
- (b) Any ground mounted equipment shall be enclosed with solid fencing and/or landscaping of at least the height of the equipment to provide year-round screening. All equipment shall be prohibited in the front yard except as may be required by a utility.

(5) Landscaping.

- (a) Landscaping shall be provided to promote a desirable visual environment, to accentuate building design, define entranceways, screen parking areas, mitigate adverse visual impacts and provide windbreaks from winter winds and summer cooling subject to review and approval by the Borough.
- (b) A landscape plan shall be prepared by a licensed professional including a mix of ornamental, shade and/or evergreen trees, shrubs, perennials, grasses, perennials and/or annuals subject to the review and approval of the Borough.
- (c) Foundation plantings and landscape beds shall be installed around the principal building.

- (d) Shade trees shall be installed at regular intervals in the front yard with a maximum spacing of 50 feet on center to function as “street trees”.
 - (e) Parking rows longer than 15 parking spaces shall be divided by a landscape island not less than 6 feet in width with a shade tree installed.
 - (f) Native and deer resistant plant species are encouraged where appropriate.
 - (g) Trees shall be installed with a minimum caliper of 2.5 to 3 inches.
 - (h) A minimum 20 foot wide landscape buffer area shall be provided along lot lines where the site abuts residential development. No buildings, structures, accessory structures, parking, driveways or storage shall be permitted in a required buffer area.
- (6) Lighting.
- (a) Site lighting shall be provided in accordance with Section 126-33 and all other applicable sections of the Borough Code.
 - (b) Lighting shall include shielding to minimize glare from surrounding residential uses and public rights-of-way and to minimize sky glow.
 - (c) Exterior site lighting shall not exceed a lighting intensity or color temperature of 3,500 Kelvin (K).
- (7) Signs.
- (a) Development in the OL-3 Zone shall be permitted to have one freestanding sign not to exceed 30 square feet, inclusive of any supporting sign or based components not to exceed a maximum height of 4 feet. Such sign may be illuminated and shall have landscape plants installed around the sign base or supports.
 - (b) Signs in the OL-3 Zone shall otherwise be in accordance with Section 150-21.A. of the Borough Code for sign in the R-1 and R-2 Districts.
- (8) Other Provisions.
- (a) Except as noted above, development in the OL-3 Zone shall comply with all other Borough zoning, site plan and subdivision regulations as provided in Chapters 150 and 126 of the Borough Code. In any instances where the requirements of this Section are in conflict with another provision of the Borough Code, the requirements of this Section shall supersede.

Section 7. If any article, section, subsection, sentence, clause or phrase of this Ordinance is, for any reason, held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance and they shall remain in full force and effect.

Section 8. In the event of any inconsistencies between the provisions of this Ordinance and any prior ordinance of the Borough of Upper Saddle River, the provisions hereof shall be determined to govern. All other parts, portions and provisions of the Code of the Borough of Upper Saddle River are hereby ratified and confirmed, except where inconsistent with the terms hereof.

Section 9. The Borough Clerk is directed to give notice at least ten (10) days prior to a hearing on the adoption of this ordinance to the Bergen County Planning Board and to all other persons entitled thereto pursuant to N.J.S.A. 40:55D-15, and N.J.S.A. 40:55D-63 (if required).

Section 7. After introduction, the Borough Clerk is hereby directed to submit a copy of the within Ordinance to the Land Use Board of the Borough of Upper Saddle River for its review in accordance with N.J.S.A. 40:55D-26 and N.J.S.A. 40:55D-64. The Planning Board is directed to make and transmit to the Borough Council, within 35 days after referral, a report including identification of any provisions in the proposed ordinance which are inconsistent with the master plan and recommendations concerning any inconsistencies and any other matter as the Board deems appropriate.

Section 8. This Ordinance shall be presented to the Mayor for his approval and signature, which approval shall be granted or denied within ten (10) days of receipt of same, pursuant to N.J.S.A. 40:69A-149.7. If the Mayor fails to return this Ordinance with either his approval or objection to same within ten (10) days after it has been presented to him, then this Ordinance shall be deemed approved.

Section 9. This Ordinance shall take effect immediately upon (1) adoption; (2) approval by the Mayor pursuant to N.J.S.A. 40:69A-149.7; (3) publication in accordance with the laws of the State of New Jersey; and (4) filing of the final form of adopted ordinance by the Clerk with (a) the Bergen County Planning Board pursuant to N.J.S.A. 40:55D-16, and (b) the Borough Tax Assessor as required by N.J.S.A. 40:49-2.1.

Joanne L. Minichetti, Mayor

ATTEST:

Joy Convertini, Borough Clerk