

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2020**

**A LOCAL LAW AMENDING CHAPTER 70 OF THE TOWN CODE
ENTITLED “ZONING”**

BE IT ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

The Town of North Hempstead has unique waterfront resources. However, the Town Board has found that portions of the existing zoning ordinance controlling waterfront development is inadequate and in some cases incompatible for properly developing and redeveloping lands in the Waterfront Business District.

After establishing a moratorium on development within the Waterfront Business District to review the code, and receiving invaluable comments from interested residents, businesses, community groups and public officials, the Town Board seeks to enact code changes that will provide for compatible land uses to exist side-by-side.

The Town recognizes that the preservation, enhancement and utilization of the natural and man-made resources along the waterfront should take place in a coordinated and comprehensive manner to insure the proper balance between those natural resources and the need to accommodate population growth and economic development.

It is intended that lands within the Waterfront Business District be developed in a manner that permits the beneficial use of waterfront resources while preventing the loss of living marine resources and wildlife, diminution of open space areas or public access to the waterfront, shoreline erosion, impairment of scenic beauty, or permanent adverse changes to ecological systems. It is further intended that development within the district enhance the waterfront's recreational, historic, scenic, cultural and commercial qualities, and to preserve and enhance these qualities for the future.

Section 2.

Article XVIIIA of Chapter 70 of the Town Code is hereby amended as follows:

§ 70- 148.1. Legislative Intent.

The Waterfront Business district is hereby established to promote, enhance and encourage water dependent uses, **promote environmental sustainability, hazard mitigation and resiliency** and increase opportunities for public access along the Town’s commercial waterfront.

The Town recognizes that the preservation, enhancement and utilization of the natural and man-made resources along the waterfront should take place in a coordinated and comprehensive manner to insure the proper balance between those natural resources and the need to accommodate population growth and economic development.

§ 70-148.2. Application of provisions.

The provisions of this article shall apply to a Waterfront Business District.

§ 70-148.3. Permitted uses.

A building **or structure** may be erected, altered or used and a lot or premises may be used for any of the purposes set forth in this article and for no other:

- A. The sale and display of new or used boats and marine supplies, marine engines, parts, marine electronic equipment, fishing supplies, marine fuel and oils, and sporting equipment for use with or in conjunction with boats **or other personal watercraft.**
- B. The storage and dockage of boats both in and out of water.
- C. Public or private marinas.
- D. Assembly of marine-related equipment and incidental light manufacturing.
- E. The manufacture, construction, repair, and maintenance of boats in and out of water and assembly of marine-related equipment and repair of boat engines and their accessories, provided all such activities are conducted in enclosed buildings.
- F. The storage of equipment for boats and the fishing industry in open lots.
- G. Recreational and commercial fishing and boating facilities.
- H. Public or private yacht clubs and beach clubs, including pools, cabanas, and lockers.
- I. Restaurants [~~and/or catering facilities~~] provided that the site has direct waterfront access for boats, subject to regulations under **§ 70-148.5 and** § 70-148.7.
- J. Parks, playgrounds, and water-based recreationalal uses.
- K. Offices, financial institution.
- L. Retail store, except those listed in § 70-126B and F [~~and stores of the type known as "farmers' markets"~~] and stores of a type known as "big-box commercial use" as defined in § 70-140B.

M. Sale or repair of jewelry, watches, clocks or optical goods, musical, professional or scientific instruments.

N. Flower shops.

O. Public art gallery, public museum, municipal park for recreational use, government or municipal buildings.

P. Gym, health club, dance studio or other similar place of assembly or public assembly.

Q. Retail grocery, retail food use, delicatessen or other store primarily selling food items packaged in units of more than one portion for consumption off the premises having a gross floor area of less than 2000 s.f..

[P.] **R.** Accessory uses on the same lot with and customarily incidental to any of the above permitted uses, except for accessory drive-through facilities, which shall be subject to the provisions of § 70-203T, and for below-grade parking structures, which shall be subject to the provisions of § 70-203U.

~~[\§ 70-148.4. Conditional uses]~~

~~[A building may be erected, altered or used and a lot or premises may be used for any of the purposes set forth in this article when authorized by the Board of Zoning and Appeals pursuant to the provisions of Article XXIV and for no other:.]~~

~~[A. — Restaurants and/or catering facilities other than those as described in § 70-148.3.I. and subject to the regulations prescribed under § 70-148.7.]~~

~~[B. — Retail grocery, delicatessen or other store primarily selling food items packaged in units of more than one portion for consumption off the premises:.]~~

~~[C. — The operation of not more than two amusement devices in conjunction with a lawfully established business. No amusement device shall be operated as authorized herein except on the following conditions:.]~~

~~[(1) — No amusement device shall be located outside of a building:.]~~

~~[(2) — No amusement device shall be located in any premises within 500 feet of any public, private or parochial school. For the purposes of this section only, the term "public, private or parochial school" shall not include schools whose students are primarily over the age of 18 years or are high school graduates:.]~~

~~[(3) — An amusement device may be operated only between the hours of 9:00 a.m. and 9:00 p.m. This limitation shall not apply to amusement devices located in bars, inns, diners, taverns and bowling alleys:.]~~

§ 70-148.5. Special uses.

The following special uses may be permitted only when authorized by the Town Board after a public hearing. Prior to authorizing the issuance of a permit for any such special uses, the Town Board shall follow the procedures and make appropriate findings, as set forth in § 70-225.B.(1) of this ordinance and the additional criteria set forth in § 70-148.6.

- A. Hotel or Boatel as defined in Article XXV of this Chapter.
- B. Mixed use building(s) consisting of retail, office, [~~hotel/boatel~~] and/or restaurant space on the lowest floor and [~~senior housing~~] **residential** units on the upper floors.
- C. [~~Senior residence, as defined in Article XXV, which provides access to the waterfront by way of a promenade, dock or boating slip and conforming to the density regulations contained in § 70-148.11.~~]

C. Restaurants not having direct waterfront access and subject to the regulations prescribed under § 70-148.7.

D. Retail grocery, retail food use, delicatessen or other store primarily selling food items packaged in units of more than one portion for consumption off the premises having a gross floor area of 2000 s.f. or greater.

§ 70-148.6. Criteria for the approval of special uses.

In addition to the criteria set forth in § 70-225.B(1) of this ordinance, applications for special uses described in § 70-148.5 shall conform to the following additional criteria as determined by the Town Board:

- A. Whether the proposed action will further the goal of establishing, **maintaining**, [~~and~~] promoting, **expanding or servicing businesses or facilities that provide or allow for the growth of** water dependent uses within the district;
- B. Whether the proposed action will create opportunities for increased public access to the waterfront;
- C. Whether the proposed action will create excessive stormwater runoff to surface waters;
- D. Whether the proposed use by reason of excess height or bulk will block water views from neighboring properties;
- E. Whether the proposed design will be in harmony with the general architectural character of the surrounding neighborhood.**

F. Whether the proposed design promotes sustainability through the use of elements such as permeable pavements, stormwater quality controls, photovoltaic cells and energy efficient lighting and building systems.

§ 70-148.7. Restaurants [~~and catering facilities.~~]

Any restaurant [~~and/or catering facility~~] as identified in § 70-148.3.I. or [~~§ 70-148.4.B.~~] **§ 70-148.5.C.** shall conform to the following:

- A. A refrigerated garbage locker shall be required within the building. There shall be no outdoor storage of putrescible waste generated by the [~~proposal~~] restaurant at any time. The applicant shall arrange for indoor carry-out pick-up with licensed sanitation collector and shall forward a copy of the contract in the Building Official prior to the issuance of a Certificate of Occupancy.
- B. All exterior doors shall be of solid construction, equipped with self closing hardware; and shall remain closed at all times except for ingress & egress.
- C. Grease traps shall be required on sewage disposal systems and are subject to Nassau County Department of Health standards.
- D. **There shall be no outdoor seating, bar, lounge or gathering space in association with a restaurant above the ground floor of any building.**

§ 70-148.8. Compliance with other regulations

A. Structures in waterways

Any proposed construction in or adjacent to any waterway or boat operation is subject to requirements outlined in Chapters 42 and 69 of the Town Code, as well as federal and state laws and rules and regulations of any appropriate federal and state agency having jurisdiction thereof.

B. Floodplain Management

Any construction within a federally-designated flood zone or Special Flood Hazard Area shall be subject to the requirements of Chapter 21 of the Town Code and any applicable regulations promulgated by the Federal Emergency Management Agency and the State of New York.

§ 70-148.9. Parking requirements.

Vehicular parking shall be provided in accordance with the requirements set forth in § 70-103 except as noted herein.

A. Parking for all categories of residential buildings or for the residential portion of a multiple-use building shall be provided at the rate of at least two spaces per dwelling unit.

B. In addition to vehicular parking spaces, racks or lockers shall be provided for the short-term parking of at least four bicycles plus one additional bicycle for every 10,000 s.f. of gross floor area or portion thereof.

§ 70-148.10. Impervious coverage

For all new construction, alterations or landscaping changes, the lot may not be covered more than[70%] **60%** by any impervious material or other type of paving.

§ 70-148.11. Plot area; frontage; density of population

A. No building or structure shall be constructed on a lot containing an area of less than 2,000 square feet.

~~[B. The maximum allowable density for a single-use senior housing facility shall be 25 dwelling units per acre. In the case of fractional acreage, the density shall be prorated accordingly.]~~

B. No building or structure shall be constructed on a lot containing less than 50 feet of frontage on a public street or thoroughfare.

C. For a [~~mixed~~] **multiple**-use building or development, the maximum density for the residential portion shall be [20] **15** dwelling units per acre. In the case of fractional acreage, the density shall be prorated.

D. At least 40% of the dwelling units in any building or site shall be designated Senior Citizen housing as defined in Article XXV of this Chapter.

E. No more than 20% of the total number of dwelling units in a building or site may consist of two or more bedrooms.

F. The maximum allowable density for hotel or boatel rooms shall be 30 rooms per acre.

§ 70-148.12. Height

A. No building shall exceed two stories, with a maximum height of [~~35~~] **30** feet [~~, except as noted in § 70-148.12B~~].

~~B. [For all uses authorized under §70-148.5.B, no building shall exceed a total of three stories, with a maximum height of 45 feet.]~~

B. Minor structural and/or architectural elements may extend a maximum of ten feet above the allowable roof height, provided they comprise no more than 10% of the total roof area and be set back a minimum of ten feet from the front building wall and five feet from all other building walls.

§ 70-148.12.A. Lot coverage

Buildings and structures may occupy up to 60% of the lot area.

§ 70-148.13. Front yard.

~~A. No front yard is required [except where a building has vehicular entrance doors facing a street, in which case, such entrance doors shall be set back a distance of at least 18 feet from the street line, and an open, unoccupied space shall be maintained between said doors and the street line.]~~ **for single-story buildings not exceeding 20 feet in height.**

B. A front yard of at least 10-feet is required for all buildings exceeding one story or 20 feet in height.

§ 70-148.14. Side yards.

~~[Other than accessory driveways no side yard shall be required for buildings used for commercial purposes except where the side line boundaries of the plot adjoin a residence district, in which event minimum side yard setbacks of 15 feet shall be maintained on each side adjoining the residence district.]~~

No building or structure shall be constructed with less than two side yards, each having a minimum width of 15 feet between the respective side of the building and the side property line of the lot. In no case shall a building wall be less than 30' from any dwelling unit on an adjoining property.

§ 70-148.15. Rear yard.

~~[No]~~ **A** rear yard setback **of at least 25 feet** shall be required where the rear yard of the lot abuts a waterway. Lots with rear yards abutting a land parcel shall have a minimum setback of twenty feet.

§ 70-148.16. Fences.

Fences shall not exceed six feet in height.

§ 70-148.17. Stormwater Management.

A. Water flow from pav[~~ed~~] **ment, roofs and other impervious** areas must be controlled to alleviate excessive runoff into surface waters.

B. **The onsite stormwater management system shall have sufficient capacity to store, dispose, and/or recycle a five-inch rainfall.**

C. All catch basins or other catch basin structures must be fitted with sediment control inserts **or equivalent technology.**

D. **To the greatest extent practicable, stormwater shall be controlled through the use vegetated roofs, swales, rain gardens, bio-retention cells, or with the expansion of stormwater infiltration infrastructure, upgradient from the site and within the watershed.**

§ 70-148.18. Sewage disposal.

All proposed buildings must be connected to a municipal sewer system.

Section 3.

Section 70-219 of Chapter 70 of the Town Code is hereby amended as follows:

D. Submission requirements and standards. The applicant shall prepare and submit plans and documentation to the Building Department for review and approval at a public hearing by the Town Board. All plans and accompanying documents shall be prepared by the appropriate professional(s) licensed in the State of New York and shall be prepared at a scale sufficient to clearly present the required information for review. The application shall include two complete sets of plans and documents for initial review, and supplemental sets as requested by the Planning and/or Building Department. Upon request by the Planning Department, the applicant shall submit additional full-size and reduced-size sets of documents prior to the public hearing. Unless otherwise waived or modified by both the Commissioner of Buildings and the Commissioner of Planning and Economic Development, each submission shall include, but not be limited to, the following general considerations and format:

[Amended 11-15-2005 by L.L. No. 11-2005; 5-29-2007 by L.L. No. 5-2007]

(1) A title page which shall include the following:

(a) A key map at a minimum scale of one inch equals 1,000 feet, showing clearly and accurately the location of the property in relation to the neighboring streets and the location of the nearest bus routes and bus stops, if applicable.

(b) A zoning/site data analysis in a format acceptable to the Commissioner of Buildings. This analysis shall include zoning district information; permitted and proposed data for all zoning criteria, including, but not limited to, floor areas by use, lot coverage, building height, parking; and the quantities of pervious and impervious surfaces. All zoning calculations shall be based on gross floor area as required in this chapter.

(c) Names of the appropriate water and sewer districts.

(d) The name and address of the applicant, and the name and address of the owner of the site, if different from the applicant. If the applicant or owner is a corporation or partnership, the names of all principals shall be included.

(e) The name(s) and contact information of the professional engineer, land surveyor, architect, landscape architect and/or land planner involved in preparing the plans.

(f) An area map of the subject site and all properties within a radius of 300 feet of any contiguous property owned by the applicant. The area map shall include all proposed principal and accessory buildings, the names of abutting property owners, as well as section, block, and lot information for all properties within the three-hundred-foot radius.

(g) The name of all abutting streets and whether said streets are Town, county or state highways.

(h) A list of drawings included in the submission set, with the original drawing dates and all revision numbers and dates indicated.

(2) A site plan, fully dimensioned, which shall include the following:

(a) Location, arrangement, design and general site compatibility of all buildings, structures, equipment, landscaping, signs, and lighting.

(b) All proposed parking and loading facilities, circulation aisles servicing those facilities, and all pavement markings.

(c) If the site has or is proposed to have vehicular access to or from an adjoining property, plans of such adjoining property, including, but not limited to, uses, building footprints, parking, site circulation, and pavement markings.

(d) Adjacent roadways indicating traffic flow directions and showing vehicular access and circulation to and from the site, including intersections, road widths, pavement surfaces, dividers, traffic controls, and street lighting.

- (e) Right-of-way improvements or road widening in conformance with the requirements of the Superintendent of Highways, and to provide a minimum of 60 feet of right-of-way in industrial areas. Any road surfacing required by the widening of existing pavement shall be equal to or better than the existing pavement and shall meet all specifications of the Highway Department which pertain to the area.
 - (f) Arrangement of pedestrian traffic access and circulation, including, but not limited to, walkway structures, control of intersections with vehicular traffic, handicapped accessibility, and overall pedestrian convenience and safety.
 - (g) Location of, and type of equipment provided for adequate storage and disposal of garbage and refuse.
- (3) Floor plans, which shall include the following: floor plans of each level, including, but not limited to, basements, cellars, mezzanines and attics, and labeling of all interior spaces with their uses.
- (4) Building elevations and section, which shall include the following:
- (a) Existing and proposed grades in Nassau County Vertical Datum.
 - (b) Finished floor elevations for each level.
 - (c) Building height elevation(s).
 - (d) Building/site section(s) as required by the Commissioner of Buildings or Commissioner of Planning and Economic Development to adequately analyze the site development.
 - (e) Proposed finish materials for all exterior surfaces.
 - (f) Sketches to scale, indicating the design, color and material of signs, accompanied by a brief narrative explaining the lighting mechanism.
- (5) Building perspectives ~~§~~ [(s)], **and/or photo simulations** which shall include the following:
- (a) The main building as viewed from all public rights-of-way.
 - (b) The main building as viewed on approach from within the site if substantially different from the above view(s).
 - (c) Any other proposed structures as required by the Commissioner of Buildings or Commissioner of Planning ~~[and Economic Development]~~ to adequately analyze the site development.

(d) all perspective drawings and photo simulations must be drawn to scale and must accurately depict adjoining properties, buildings and the contextual relationship to the surrounding neighborhood.

(6) Landscape plan, which shall include the following:

(a) All existing and proposed landscaping, specifying the type, size and location of trees, shrubs, and other landscaping materials. Tree size shall include diameter at four feet six inches above grade as well as height of the tree.

(b) All fencing, specifying style, material, and height.

(c) All lawn irrigation, specifying the water utilization in gallons per minute. Sprinkler heads or plumbing systems shall not be installed, maintained or allowed to encroach upon any public rights-of-way.

(d) All retaining walls, which shall require a building permit, and must be designed by a qualified professional licensed to practice in the State of New York. Retaining walls shall conform to the requirements of § 70-202.1.

(e) When a planted buffer is required as a screen for adjacent properties, it shall consist of a ten-foot-wide strip planted with coniferous material six feet tall on seven-foot centers in the case of a single row. When a double row is required, the planting strip shall be 20 feet wide planted with staggered rows of coniferous material six feet tall. Plantings shall be of sufficient quality and quantity to provide a pleasing appearance and shall include the maximum retention of existing vegetation. All required buffers shall be maintained, and replacement vegetation shall be planted as required to maintain the required screening in perpetuity.

(f) Curbs, sidewalks and street trees in accordance with the specifications of the Highway Department of the Town of North Hempstead, and subject to the approval of the Superintendent of Highways. Curbs, sidewalks or trees may be deleted if, in the opinion of the Town Board, they would be deemed unnecessary or inappropriate.

(7) Drainage and sediment/erosion control plan(s), which shall include the following:

(a) Existing/proposed grades, by contours and spot elevations (in Nassau County Vertical Datum), in sufficient numbers to adequately depict how the land will drain.

(b) Schematic drawing of the roofs of all proposed buildings and equipment, showing the drainage system and direction of water flow.

(c) Limits and runoff direction for each drainage area, in plan view.

(d) The location, size and type of drainage facilities, with top and invert elevations.

(e) Table showing that the stormwater and drainage system, as designed by a licensed professional, adequate to dispose of a minimum five-inch rainfall. The drainage system shall comply with the minimum standards of the Nassau County Department of Public Works rules and regulations governing approval for erection of buildings on county highways.

(f) Location of on-site water supply and sewage disposal facilities and their connections.

(g) The depth and limits of all cuts and fills.

(h) The footprint and first-floor elevation of all structures.

(i) Drainage on existing roads as required by the Commissioner of Public Works. Any proposed structures or improvements made upon the right-of-way must receive the approval of the Superintendent of Highways.

(j) Methods and materials to be used to address erosion and sediment and slope stabilization both during and after construction, in plan and narrative form.

(8) Lighting plan, which shall include the following:

(a) The location of all proposed lighting fixtures, height of standards and the intensity and type of fixture, located and designed so as not to have an adverse effect on surrounding property.

(b) Illumination levels for the entire site, not exceeding 0.5 footcandle at the property line, except as otherwise approved by the Town Board.

(c) Catalog cut or picture of the light fixture and the manufacturer's specification sheet.

(9) Reports and documentation, including, but not limited to, the following:

(a) A full environmental assessment form in the format required by the State Environmental Quality Review Act.

(b) Traffic analysis, including capacity and level-of-service for the nearest signalized intersections.

(c) Water and sewer availability letters.

(d) Copies of any restrictive covenants existing on any portion of the site.

(e) Copies of all variances granted for the site.

(f) Copies of access permit application and curb cut approvals from the appropriate jurisdiction(s).

(g) Existing conditions survey.

(h) Photographs of all properties abutting the parcel and across from the parcel within 300 feet.

(10) Where applicable, a statement setting forth whether the proposed use conforms to, or deviates from, a community visioning or vision plan which has been adopted by the Town Board as a planning document for the Town. In the event that the proposed use deviates from such plan, the statement shall set forth how it deviates and the reasons why it should be approved despite this deviation.

Section 4.

Section 70-231 of Chapter 70 of the Town Code is amended as follows:

§ 70-231 Definitions.

Hotel

~~[A commercial building primarily for transient guests, consisting of three or more stories and having only one dining room and one kitchen for the serving of food to be consumed primarily in said dining room.]~~

A building or a group of buildings used primarily for providing short-term sleeping accommodations for transient occupants in which ingress and egress to and from individual rooms is made through an inside lobby. Accommodations are offered to the general public on a daily rate and may include additional services, such as restaurants, meeting rooms and recreational facilities as an accessory use within a principal structure.

Section 5.

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