

**TOWN OF NORTH HEMPSTEAD**

**LOCAL LAW NO. \_\_ OF 2021**

**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 Board finds that it is in the best interest of the residents of the Town of North Hempstead to make amendments to Chapter 70 of the Town Code entitled “Zoning” in order to clarify procedural requirements, eliminate duplicative and conflicting provisions, update certain outdated and obsolete provisions and reduce the need to obtain certain common but minor variances.

**Section 2.**

Section 70-7.1 of Chapter 70 of the Town Code is hereby amended as follows:

A. No dwelling or other building shall be constructed on a lot unless it has a minimum lot width of 125 feet at the required front setback line. A minimum lot width of 40 feet shall be maintained at all points between the property line at the street and the front setback line.

B. ~~[The minimum lot width shall be the same as the average lot width of existing lots within 350 feet on each side of the lot within the same blockfront(s) and district. For lots within 350 feet of an intersection, the blockfront(s) shall be assumed to continue across the intersection, excluding the width of the intersection.]~~

C. ~~[For corner lots, the minimum lot width shall be calculated separately for each blockfront, and the greater of the two shall prevail.]~~

D. ~~[The minimum lot width shall be the greater of A or B above, but in no case shall the width of a lot be required to exceed 200 feet.]~~

**Section 3.**

Section 70-10 of Chapter 70 of the Town Code is hereby amended as follows:

A. There shall be a front yard, the depth of which shall be not less than 40 feet from the front property line.

B. On a corner lot a front yard shall be required on each street. The front yard on the narrower street frontage shall be not less than 40 feet in depth and the other front yard shall be not less than 35 feet in depth, and, if the street frontages are equal, a minimum front yard of 40 feet shall be required on each street front.

C. The minimum front yard depth **for detached dwellings** shall be the same as the average front yard depth of the existing primary buildings **used as dwellings** within 350 feet on each side of the lot on the same side of the street and within the same zoning district, or 40 feet, whichever is greater. No front yard shall be required to have a depth greater than 60 feet. On a lot with multiple street fronts, the average front yard setback shall only apply to the primary front yard.

#### Section 4.

Section 70-17.1 of Chapter 70 of the Town Code is hereby amended as follows:

A. No dwelling or other building shall be constructed on a lot unless it has a minimum lot width of 100 feet at the required front setback line. A minimum lot width of 40 feet shall be maintained at all points between the property line at the street and the front setback line.

~~B. [The minimum lot width shall be the same as the average lot width of existing lots within 300 feet on each side of the lot within the same blockfront(s) and district. For lots within 300 feet of an intersection, the blockfront(s) shall be assumed to continue across the intersection, excluding the width of the intersection.]~~

~~C. [For corner lots, the minimum lot width shall be calculated separately for each blockfront, and the greater of the two shall prevail]~~

~~D. [The minimum lot width shall be the greater of A or B above, but in no case shall the width of a lot be required to exceed 115 feet.]~~

#### Section 5.

Section 70-19 of Chapter 70 of the Town Code is hereby amended as follows:

A. No dwelling shall be erected unless it has a habitable floor area on the first floor of at least 1,400 square feet.

B. The gross floor area shall not exceed 31% of the lot area.

C. The gross floor area (**residential**) on a lot shall not exceed 5,200 square feet.

D. In no case shall the limitations of this section prohibit a dwelling of less than 3,060 square feet on a lot held in single and separate ownership as of December 31, 1999, so long as the building conforms to all other restrictions of this chapter.

#### Section 6.

Section 70-20 of Chapter 70 of the Town Code is hereby amended as follows:

A. There shall be a front yard, the depth of which shall be not less than 35 feet from the front property line.

B. On a corner lot, a front yard shall be required on each street. The front yard on the narrower street frontage shall be not less than 35 feet in depth, and the other front yard shall be not less than 30 feet in depth, and, if the street frontages are equal, a minimum front yard of 35 feet shall be required on each street front.

C. The minimum front yard depth **for detached dwellings** shall be the same as the average front yard depth of the existing primary buildings **used as dwellings** within 300 feet on each side of the lot on the same side of the street and within the same zoning district, or 35 feet, whichever is greater. No front yard shall be required to have a depth greater than 50 feet. On a lot with multiple street fronts, the average front yard setback shall only apply to the primary front yard.

## Section 7.

Section 70-27.1 of Chapter 70 of the Town Code is hereby amended as follows:

A. No dwelling or other building shall be constructed on a lot unless it has a minimum lot width of 65 feet at the required front setback line. A minimum lot width of 40 feet shall be maintained at all points between the property line at the street and the front setback line.

~~B. [The minimum lot width shall be the same as the average lot width of existing lots within 200 feet on each side of the lot within the same blockfront(s) and district. For lots within 200 feet of an intersection, the blockfront(s) shall be assumed to continue across the intersection, excluding the width of the intersection.]~~

~~C. [For corner lots, the minimum lot width shall be calculated separately for each blockfront, and the greater of the two shall prevail.]~~

~~D. [The minimum lot width shall be the greater of A or B above, but in no case shall the width of a lot be required to exceed 100 feet.]~~

## Section 8.

Section 70-29 of Chapter 70 of the Town Code is hereby amended as follows:

A. No dwelling shall be erected unless it has a habitable floor area of at least 1,200 square feet.

B. The gross floor area shall not exceed 36% of the lot area.

C. The gross floor area (**residential**) on a lot shall not exceed 4,000 square feet ~~[unless it has a lot area greater than 14,000 square feet and the minimum side yard is increased to 15 feet.]~~

(1) For lots greater than 14,000 square feet, development exceeding 4,000 square feet of gross floor area (**residential**) shall comply with the regulations of Article III, R-AA.

D. In no case shall the limitations of this section prohibit a dwelling of less than 2,700 square feet on a lot held in single and separate ownership as of December 31, 1999, so long as the building conforms to all other restrictions of this chapter.

## **Section 9.**

Section 70-30 of Chapter 70 of the Town Code is hereby amended as follows:

A. Unless the main building on the lot is controlled by § 70-30C, there shall be a front yard, the depth of which shall be not less than 35 feet from the front property line.

[Amended 1-3-2006 by L.L. No. 1-2006]

B. On a corner lot, a front yard shall be required on each street and, unless the building is controlled by § 70-30C, the front yard on the narrower street frontage shall be not less than 35 feet in depth and the other front yard shall be not less than 30 feet in depth; and if the street frontages are equal, a minimum front yard of 35 feet shall be required on each street front.

C. The minimum front yard depth **for detached dwellings** shall be the same as the average front yard depth of the existing primary buildings **used as dwellings** within 200 feet on each side of the lot on the same side of the street and within the same zoning district, or 35 feet, whichever is greater. No front yard shall be required to have a depth greater than 50 feet. On a lot with multiple street fronts, the average front yard setback shall only apply to the primary front yard.

## **Section 10.**

Section 70-37.1 of Chapter 70 of the Town Code is hereby amended as follows:

A. No dwelling or other building shall be constructed on a lot unless it has a minimum lot width of 50 feet at the required front setback line. A minimum lot width of 40 feet shall be maintained at all points between the property line at the street and the front setback line.

~~B. [The minimum lot width shall be the same as the average lot width of existing residential lots within 200 feet on each side of the lot within the same blockfront(s) and district. For lots within 200 feet of an intersection, the blockfront(s) shall be assumed to continue across the intersection, excluding the width of the intersection.]~~

~~C. [For corner lots, the minimum lot width shall be calculated separately for each blockfront, and the greater of the two shall prevail.]~~

~~D. [The minimum lot width shall be the greater of A or B above, but in no case shall the width of a lot be required to exceed 100 feet.]~~

## **Section 11.**

Section 70-39 of Chapter 70 of the Town Code is hereby amended as follows:

A. No dwelling shall be erected unless it has a habitable floor area of at least 1,000 square feet.

B. The gross floor area shall not exceed 45% of the lot area.

C. The gross floor area (**residential**) on a lot shall not exceed 3,400 square feet [~~unless the lot area is greater than 8,500 square feet and the minimum side yard is increased to 10 feet.~~]

(1) For lots greater than 8,500 square feet, development exceeding 3,400 square feet of gross floor area (**residential**) shall comply with the regulations of Article IV, R-A.

D. In no case shall the limitations of this section prohibit a dwelling of less than 2,500 square feet on a lot held in single and separate ownership as of December 31, 1999, so long as the building conforms to all other restrictions of this chapter.

## **Section 12.**

Section 70-40 of Chapter 70 of the Town Code is hereby amended as follows:

A. Unless the main building on the lot is controlled by § 70-40C, there shall be a front yard, the depth of which shall be not less than 30 feet from the front property line.

B. On a corner lot, a front yard shall be required on each street and, unless the building is controlled by § 70-40C, the front yard on the narrower street frontage shall be not less than 30 feet in depth and the other front yard shall be not less than 25 feet in depth; and if the street frontages are equal, a minimum front yard of 30 feet shall be required on each street front.

C. The minimum front yard depth **for detached dwellings** shall be the same as the average front yard depth of the existing primary buildings **used as dwellings** within 200 feet on each side of the lot on the same side of the street and within the same zoning district, or 30 feet, whichever is greater. No front yard shall be required to have a depth greater than 45 feet. On a lot with multiple street fronts, the average front yard setback shall only apply to the primary front yard.

## **Section 13.**

Section 70-47.1 of Chapter 70 of the Town Code is hereby amended as follows:

A. No single-family dwelling shall be constructed on a lot unless it has a minimum lot width of 40 feet at the required front setback line. A minimum lot width of 35 feet shall be maintained at all points between the property line at the street and the front setback line.

B. No two-family dwelling shall be constructed on a lot unless it has a minimum lot width of 80 feet at the required front setback line. A minimum lot width of 50 feet shall be maintained at all points between the property line at the street and the front setback line.

C. No other main building permitted as set forth in § 70-44 and not used for residence purposes shall be constructed on a lot unless it has a minimum lot width of 50 feet.

D. [~~The minimum lot width shall be the same as the average lot width of existing lots within 200 feet on each side of the lot within the same block front(s) and district, or the minimum required in A, B or C above as applicable, whichever is greater. For lots within 200 feet of an~~

~~intersection, the blockfront shall be assumed to continue across the intersection, excluding the width of the intersection.]~~

~~E. [For corner lots, the minimum lot width shall be calculated separately for each blockfront, and the greater of the two shall prevail.]~~

~~F. [Where a blockfront consists of a mix of single family and two family dwellings, conforming lots containing two family dwellings shall be counted as two single family lots to determine the average lot width.]~~

~~G. [No single family lot shall be required to exceed 80 feet in lot width, nor shall any other lot be required to exceed 160 feet in lot width.]~~

#### **Section 14.**

Section 70-49 of Chapter 70 of the Town Code is hereby amended as follows:

A. No single-family dwelling shall be erected unless it has a habitable floor area of at least 900 square feet. No two-family dwelling shall be erected unless it has a habitable floor area of at least 900 square feet for each family.

B. The gross floor area shall not exceed 50% of the lot area.

C. The gross floor area (**residential**) on a lot shall not exceed 2,800 square feet ~~[unless it has a lot area greater than 6,000 square feet and the minimum side yard is increased to seven feet.]~~

(1) For lots greater than 6,000 square feet, development exceeding 2,800 square feet of gross floor area (**residential**) shall comply with the regulations of Article V, R-B.

D. In no case shall the limitations of this section prohibit a dwelling of less than 2,250 square feet on a lot held in single and separate ownership as of December 31, 1999, so long as the building conforms to all other restrictions of this chapter.

#### **Section 15.**

Section 70-50 of Chapter 70 of the Town Code is hereby amended as follows:

A. Unless the main building on the lot is controlled by § 70-50C, there shall be a front yard, the depth of which shall be not less than 25 feet from the front property line.

[Amended 1-3-2006 by L.L. No. 1-2006]

B. On a corner lot, a front yard shall be required on each street and, unless the building is controlled by § 70-50C, the front yard on the narrower street frontage shall be not less than 25 feet in depth and the other front yard shall be not less than 20 feet in depth; and if the street frontages are equal, a minimum front yard of 25 feet shall be required on each street front.

C. The minimum front yard depth **for detached dwellings** shall be the same as the average front yard depth of the existing primary buildings **used as dwellings** within 200 feet on each side of the lot on the same side of the street and within the same zoning district, or 25 feet, whichever

is greater. No front yard shall be required to have a depth greater than 40 feet. On a lot with multiple street fronts, the average front yard setback shall only apply to the primary front yard.

## Section 16.

Subsection C of Section 70-100.2 of Chapter 70 of the Town Code is hereby amended as follows:

C. ~~[(Reserved)]~~ **Accessory Porches, Porticos, Terraces, and Decks.**

**(1) Accessory porches, porticos, terraces, and decks shall comply with all height, setback, skyplane, and other area requirements for a dwelling or other main building of the zoning district in which they are located and with §70-101B, when they are located directly adjacent to the dwelling or main building, regardless of whether they are physically and/or structurally attached to the dwelling or main building.**

**(2) Accessory porches, porticos, terraces, and decks shall comply with all setback requirements for a pool in §70-102C when directly adjacent to and/or accessing a pool and when not also adjacent to a dwelling or other main building.**

**(3) Accessory porches, porticos, terraces, and decks which are entirely physically and visually detached and remotely located from the dwelling or main building shall be controlled by the requirements of accessory buildings and structures found in §70-100.1.**

**(4) All accessory porches, porticos, terraces, and decks located to the rear of the rear building line, combined with all other accessory structures, shall not exceed 40% of the rear yard, and all accessory porches, porticos, terraces, and decks forward of the front building line shall be considered as part of the front yard and shall be counted in the maximum front yard coverage as limited by the requirements for the zoning district in which they are located.**

**(5) Accessory terraces and decks that are 8 inches or less above finished grade shall not be controlled by subsection (1) or (2) above, shall not be restricted in location to the rear yard, and shall not be counted towards maximum coverage of the rear yard by structures. They shall be counted towards the maximum front yard coverage when located in the front yard. Terraces and decks that are 8 inches or less above finished grade must be provided with minimum 3 foot setbacks to any property line regardless of location. This code shall not restrict patios, walkways, driveways, and other flatwork entirely flush with grade so long as all storm water can be controlled, contained, and provided with retention on site.**

## Section 17.

Subsection D of Section 70-100.2 of Chapter 70 of the Town Code is hereby amended as follows:

D. Stationary outdoor fireplaces, **fire pits, barbeques, or any other sources of exterior flame**, shall be at least 10 feet distant from side and rear property lines and shall not exceed five feet in height.

### Section 18.

Subsection G of Section 70-100.2 of Chapter 70 of the Town Code is hereby amended as follows:

G. Portable sheds shall not exceed [~~100~~] **144** square feet and shall be located only in the rear

### Section 19.

Subsection G of Section 70-101 of Chapter 70 of the Town Code is hereby amended as follows:

G. Steps **and required landings** extending into a minimum yard will not be considered an encroachment into such yard, provided that such steps do not exceed in height the first floor level of the building, and provided further that such steps are necessary to provide access to a walk, porch, terrace or vestibule. **For the purposes of this section, a required landing shall not exceed 5 feet in the direction of travel, and shall not exceed a width that provides greater than 1 feet on either side of the entrance opening in an exterior wall, or shall not exceed 5 feet in width when not serving as a platform for an entrance into a dwelling/building.**

### Section 20.

Section 70-103 of Chapter 70 of the Town Code is hereby amended to add Subsection T to follow Subsection S as follows:

**T. The off-street parking spaces required by this article are to be available at all times for customers, clients, constituents, patrons, visitors, employees, residents, and guests of the primary use of the main building(s) situated on the site. Commercial Parking Lots must also comply with the definition of “parking space” contained in §70-231 of this chapter and the requirements of this article, but no on-site parking spaces required under this article may be used as a portion of a commercial parking lot. Parking spaces for the parking of commercial vehicles or storage of vehicles for other purposes shall not be controlled by the provision of this article other than §70-103C and §70-103M, and shall be considered ‘storage’ in regard to the requirements thereof. Exterior storage of vehicles shall only be allowed where specifically indicated as a permitted or conditional use in the zoning district in which they are to be located and must comply with the requirements of §70-212B.**

- (1) **Accessory storage of up to two commercial vehicles customarily incidental to the permitted use of the main building(s) shall be permitted as an accessory use in any business or industrial district, but may not utilize the parking spaces required**



**by this article.**

**Section 21.**

Section 70-202.2 of Chapter 70 of the Town Code is hereby amended as follows:

A. General requirements. All construction in which there will be an increase in impervious surface area in excess of [~~250~~] **5% of the lot area or 750** square feet, **whichever is less**, requires on-site retention of 2 1/2 inches of rainfall.

(1) Drainage and erosion control plans must be prepared by a professional engineer, registered architect or registered landscape architect and shall be submitted to the Building Department at the time of application for a building permit.

(2) Plans shall include separate methods of erosion control and stormwater retention for the period during construction, and shall ensure that erosion control and stormwater retention are provided for within the boundaries of any site that is under construction. Such methods shall be implemented and maintained throughout the course of construction to its completion, and shall also provide for the maintenance of erosion control and stormwater retention after construction.

(3) Erosion control and stormwater management plans shall indicate all existing vegetation, vegetation proposed to be removed and proposed plantings. No vegetation that contributes to the control of erosion and water on the site may be removed without compensatory site work.

B. Period during construction.

(1) Plans shall be provided for erosion control and stormwater retention for the period during construction. Methods for control may include, but are not limited to, hay bales, swales, berms, contour modification, landscaping, silt fences, rain barrels and drywells.

[Amended 5-13-2014 by L.L. No. 7-2014]

(2) The Building Inspector may require a field inspection prior to commencement of construction to review the erosion control/stormwater management plan.

(3) New drywells; temporary grates.

(a) Where new drywells or other stormwater retention facilities are part of the site work, they shall be installed prior to clearing other areas of the site for new construction.

(b) Temporary grates or weighted silt fences with adequate sieve size to permit water percolation and retention of sediment shall be installed on all drywells during construction. Sediment shall be removed from the silt fence as necessary and disposed of in the proper manner. Upon completion of construction, the drywells shall be cleaned out and approved by the Building Inspector, at which time the permanent grates shall be installed.

(4) If conditions warrant, the Building Commissioner shall have the authority to request additional information or modifications to the plans at any time during construction to further evaluate erosion control/stormwater management.

C. Permanent erosion control and stormwater management.

(1) New site development must provide for permanent erosion control and stormwater containment on site. Plans shall be submitted in accordance with Subsection A of this section.

(2) Methods for control may include, but are not limited to, swales, berms, contour modification, landscaping, rain barrels and drywells.

[Amended 5-13-2014 by L.L. No. 7-2014]

(3) Where existing site conditions do not **or proposed conditions would not** control erosion and contain stormwater **on site**, the Building Commissioner [~~may~~] **shall** require corrective site work.

(4) No more than one rain barrel of up to 60 gallons may be connected to each roof leader for the purpose of satisfying the requirements of Subsection A of this section.

[Added 5-13-2014 by L.L. No. 7-2014]

(5) **When used for stormwater retention on the site, the location of drywells shall be located in accordance with Nassau County drainage standards, except that on lots of insufficient size, distances that are required to be a minimum of 20 feet shall be permitted to be reduced to 10 feet, and further reductions may be permitted only when a NYS Licensed Architect or Engineer submits a letter which certifies that that reduced distance separations will have no impact on the adjacent structure, surrounding properties, existing water and sanitation facilities, and the public right-of-way.**

D. [~~Waiver provisions. A waiver of these requirements may be granted by the Building Commissioner.~~]

[~~(1) — A request for waiver must be accompanied by a letter from a professional engineer, registered architect or registered landscape architect certifying that the grading and soil conditions existing and/or proposed on the site will be adequate to control all runoff.~~]

[~~(2) — A waiver may be granted if satisfactory evidence is submitted to prove that compliance would endanger mature trees and other mature vegetative growth. This request must include a statement by a professional engineer, registered architect, or registered landscape architect that mitigation is not necessary or that other appropriate measures are being taken to retain water and erosion on site.~~]

[~~(3) — No waiver may be granted for any site where existing or proposed grades exceed 15% or for new impervious areas in excess of 500 square feet.~~]

## Section 22.

Subsection G of Section 70-203 of Chapter 70 of the Town Code is hereby amended as follows:

G. Where a parking district, business district or industrial district is within 15 feet of any residence district or where such district is within 15 feet of land owned and maintained by the ~~[Long Island State Park Commission]~~ **New York State Office of Parks, Recreation and Historic Preservation** as a state park or **the New York State Department of Transportation** as a parkway, there shall be provided a landscaped area of at least 15 feet in depth adjoining such district or districts or such park or parkway. Such landscaped area shall be located within ~~[such parking district, business district, or industrial district and not within the adjacent residence district]~~ **the same lot or site as the primary building(s) or use(s) in the parking, business, or industrial district and shall be located along the property line(s) abutting the adjacent properties or land containing the residential district, park, or parkway. A buffer is not required to be located through a property so as to bifurcate it.** Such landscaping shall consist of trees and shrubs which shall be so located and of sufficient density to effectively screen the parking, business and industrial districts from any **adjacent properties in a** residence district or from land owned and maintained by ~~the [Long Island State Park Commission]~~ **New York State Office of Parks, Recreation and Historic Preservation or the New York State Department of Transportation**. Said screening shall be subject to the approval of the Building Official. Any site plan required under this local law shall designate the trees and/or shrubs intended to be planted and the location thereof. Landscaped area shall consist of a staggered double row planting strip seven feet on center to be planted with coniferous material of six-foot height. The provisions of this section shall not apply where the parking, business and industrial districts and any residence district or the land owned and maintained by ~~the [Long Island State Park Commission]~~ **New York State Office of Parks, Recreation and Historic Preservation or the New York State Department of Transportation** are separated by a street, road or highway.

## Section 23.

Subsection O of Section 70-203 of Chapter 70 of the Town Code is hereby amended as follows:

O. No building or premises shall be used or occupied hereafter as a public garage, motor vehicle repair shop or service station for supplying to motor vehicles or other similar operated means of transportation gasoline or other oil or liquid that will generate an inflammable vapor at ordinary temperatures, unless it is used in connection with a building occupied exclusively as a public garage, motor vehicle repair shop, service station or automobile showroom or has been heretofore legally used for such purpose and except those used or occupied pursuant to a valid permit issued in compliance with ~~[\$70-203O]~~ **§70-203P**.

## Section 24.

Subsection P of Section 70-203 of Chapter 70 of the Town Code is hereby amended as follows:

P. No permits for the construction or **substantial** alteration of gasoline service stations shall be issued without first obtaining approval from the Town Board after a public hearing.

**(5) For purposes of this section, a substantial alteration shall mean the construction of a new building or building addition of greater than 750 square feet, the addition, removal or relocation of pump islands, the construction of a canopy (excluding the replacement of a canopy of the same dimensions), addition or expansion of a convenience store or the addition, removal or relocation of access/egress points, entrance/exit driveways or curb cuts.**

## Section 25.

Subsection X of Section 70-203 of Chapter 70 of the Town Code is hereby amended as follows:

X. Electric vehicle charging stations shall be permitted in all commercial districts, subject to the following:

(1) Each electric vehicle charging station shall include vehicle impact protection (bollards) or a similar structure.

(2) ~~A maximum of two parking spaces that are designated for the exclusive use of electric charging and the sale of electricity may be counted towards the off-street parking requirements specified in § 70-103.~~ **The greater of two spaces or ten percent of the total provided parking may be designated for the exclusive use as electric vehicle charging and the sale of electricity and counted towards the off-street parking requirements specified in § 70-103. When a charging station is incapable or prohibited from charging vehicles from multiple vehicle manufacturers, those designated charging spaces, effected by this limitation will not be counted towards the off street parking requirement specified in §70-103.**

(3) Components for electric vehicle charging stations may encroach up to 36 inches into a required setback or buffer

## Section 26.

Subsection A of Section 70-215 of Chapter 70 of the Town Code is hereby amended as follows:

A. ~~[Unprotected metal buildings and all buildings of frame construction shall be prohibited in any business or industrial district, except that buildings of frame construction existing in a business or industrial district at the date of this section, as amended, may be used in such business or industrial district, provided that such buildings conform, or are altered to conform, to the provisions of the New York State Building Code applicable to the use to which they are to be devoted and provided that they conform to all applicable fire codes and all other provisions of this chapter.]~~ **Construction that does not conform with the requirement of the Town of North Hempstead Building Code or NYS Uniform Fire Prevention and Building Code in effect at the time of construction, extension, or alteration or the requirements of the**

**current NYS Property Maintenance and NYS Fire Codes applicable to existing buildings shall be prohibited in all use districts.**

**Section 27.**

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

A. When site plan review required; procedure. No permit shall be issued for a site greater than 25,000 square feet in any zone other than Residence Open Space, Residence AAA, Residence AA, Residence A, Residence B, Residence C, Residence D, or Hospital District until a site plan, as specified in this section, has been approved by the Town Board, if any one or more of the following criteria are met:

(1) The site upon which the work is proposed involves one or more of the following:

(a) The construction of a new building or structure or addition to an existing structure of greater than 750 square feet of floor area.

(b) The change in use of an existing building or buildings on a site in a manner which will:

[1] Increase the number of required off-street parking spaces for the site pursuant to § 70-103 of this chapter by more than 33%; or

[2] Add at least 10,000 square feet of retail; or

[3] Add at least 10,000 square feet of public assembly use at the site.

(c) The alteration of an existing single retail use greater than 20,000 square feet at the site so as to create three or more retail or public assembly uses.

(d) The alteration of an existing single retail space greater than 20,000 square feet to permit shared occupancy by more than two tenants.

(e) ~~A change in access to the site or a change in the circulation within the site which affects at least 20% of the paved area.~~ **A change in the number of site access/egress points, entrance/exit drives or curb cuts or a relocation of an existing access point by more than 20 feet.**

**Section 28.**

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

G. No certificate of occupancy **or certificate of completion** shall be issued until all site work authorized or required by the Town Board is completed and approved by the Commissioner of Buildings and any conditions imposed by the Town Board are complied with. **Once a certificate of occupancy or certificate of completion has been issued pursuant to a Building Permit to develop the property in accordance with the plans for which such approval by the Town Board has been granted, no further adjustments or modifications to the site shall**

**be permitted with the exception of interior alterations that would not trigger a site plan pursuant to §70-219A(1), unless either the modified site plan has been approved as a minor modification in accordance with §70-219I of the modified site plan has been approved by the Town Board in accordance with this section.**

## Section 29.

Section 70-219.1 of Chapter 70 of the Town Code is hereby amended as follows:

### § 70-219.1 Time limitations.

[Added 2-28-2019 by L.L. No. 5-2019]

A. Change of zone. Whenever a change of zone has been granted pursuant to §70-238B, failure to obtain, as applicable, a variance, **conditional/special use approval**, site plan approval, special use permit, or building permit (whichever action occurs first) to develop the rezoned property in accordance with the petition and site plan made a part thereof within three years after the granting of the petition shall be deemed an abandonment of the project, and the rezoned property shall revert to the zoning classification which applied at the time of the change of zone, except that the Town Board may, on petition or on its own motion, by resolution after a public hearing, extend such rezoning for additional periods of one year on finding that the conditions and circumstances essential to the original enactment have not changed. No extension of a rezoning may be granted for greater than one year, and any extension of a rezoning granted for greater than one year shall be void and of no effect. **In the case where a variance or conditional/special use approval has been granted by the Board of Zoning Appeals, or a special permit or site plan approval has been granted by the Town Board subsequent to a change of zone granted by the Town Board, the change of zone shall lapse and be of no further force and effect at any such time that the variance, conditional/special use approval, special permit, or site plan approval has lapsed or expired.**

B. Variances **and conditional/special use approvals** by the Board of Zoning Appeals.

(1) Any variance **or conditional/special use** granted by the Board of Zoning and Appeals shall lapse and be of no further force and effect after three years from the date of decision if the applicant has not obtained, as applicable, site plan approval, a special use permit or a building permit (whichever action occurs first) to develop the property that is the subject of the application for a variance in accordance with the plans for which such variance was granted, unless an extension of time has been granted by the Board pursuant to this section. **In the case where a special permit or site plan approval has been granted by the Town Board subsequent to a variance or conditional/special use approval granted by the Board of Zoning and Appeals, the variance or conditional/special use approval shall lapse and be of no further force and effect at any such time that the special permit or site plan approval has lapsed or expired.**

(2) Upon request of the applicant, the Board may extend a variance for not more than one year per application, up to a maximum of three one-year extensions. The applicant seeking a

variance extension shall submit a written request to the Board, together with any supporting documentation. Such request shall be filed prior to the expiration date of the variance or previous variance extension. Failure to file a timely request shall result in a lapse of variance.

(3) Requests for a variance extension shall be considered by the Board without a public hearing. The applicant must demonstrate by substantial evidence that there have been diligent efforts to pursue the necessary permits for construction, that there has been no substantial change in facts as presented in the original variance application or the conditions of approval, and that specified circumstances or conditions necessitate the extension. In the absence of such evidence, requests for a variance extension shall be denied.

(4) Fees for variance extension requests shall be set according to the amounts indicated in the Town of North Hempstead Fee Schedule.

C. Special permits. Whenever a special exception has been granted pursuant to ~~this section §70-240~~ or a permit pursuant to ~~§70-203O~~ **§70-203P, §70-203T, or §70-203U**, failure to obtain, as applicable, site plan approval or a building permit to develop the property in accordance with the application and site plan made a part thereof within three years after the granting of the special permit shall be deemed an abandonment of the project, except that the Town Board may, on petition or on its own motion, by resolution, extend such special permit for additional periods of six months on finding that the conditions and circumstances essential to the original grant have not changed. **In the case where a site plan approval has been approved by the Town Board subsequent to or concurrently with a special permit, the special permit shall lapse and be of no further force and effect at any such time that the site plan approval has lapsed or expired.**

D. Site plan review. Whenever a site plan has been approved pursuant to § 70-219 of the Town Code, failure to obtain a building permit to develop the property in accordance with the application and site plan within three years after the adoption date of the resolution approving the site plan shall be deemed an abandonment of the site plan and the approval of the site plan will be deemed to have lapsed, except that the Town Board may, by resolution and prior to the date the approval shall lapse, extend such site plan approval for additional periods of one year on finding that the conditions and circumstances essential to the original grant have not changed; provided, however, that the Town Board may not grant more than three one-year extensions. Notwithstanding the above, in the event that a building permit to develop the property in accordance with the application and site plan is timely obtained, and the building permit subsequently expires without being extended pursuant to the provisions of § 2-11 of the Town Code or has been subsequently revoked pursuant to § 2-14 of the Town Code, the site plan shall be deemed abandoned and the approval of the site plan will be deemed to have lapsed, except as the site plan is extended as described above.

**E. Expiration of Change of Zone, Approvals by the Board of Zoning Appeals, Special Permits, and Site Plan Approvals upon expiration of a Building Permit. Notwithstanding any expiration specified in this section, any change of zone, variance, conditional or special use approval, special permit, or site plan approval shall lapse and be of no further force and effect upon the expiration of the first Building Permit term under the limits of §2-11A, if no substantial construction has taken place in accordance with the plans for which such change of zone, variance, conditional or special use, special permit, or site plan approval**

**was granted, unless an extension of time has been granted by the Board of Zoning Appeals or Town Board in accordance with this section.**

**Section 30.**

Subsection C of Section 70-227 of Chapter 70 of the Town Code is hereby amended as follows:

C. Submission Requirements.

(1) All applications to the Board of Zoning and Appeals shall be accompanied by the notice of disapproval issued by the Building Department, an application form with related attachments and [~~five~~] **four** copies of each of the following:

(a) For applications for new one- and two-family residential structures[, and additions or alterations of one- and two-family residential structures or construction of fences, sheds or other accessory structures]:

[1]. Title page, which shall include the following:

[a] Key map showing clearly and accurately the location of the property in relation to the neighboring streets;

[b] Zoning/site data analysis which shall include zoning district; permitted and proposed data for all zoning criteria, including, but not limited to, floor areas, lot coverage, building height, and a depiction of the required sky exposure plane;

[c] Name and address of the applicant, and the name and address of the owner of the site, if different, from the applicant;

[d] Name(s) and contact information of the professional engineer, land surveyor, architect, landscape architect and/or land planner involved in preparing the plans;

[e] Area map of the subject property and all properties within a radius of 300 feet of any contiguous property owned by the applicant. The area map must be accurately drawn to scale and shall include the names of property owners, as well as section, block, and lot information for all properties within the three-hundred-foot radius;

[2]. Survey of existing conditions, prepared by a New York State licensed land surveyor at a scale of one inch equals 40 or larger, showing at a minimum:



- [a] The locations of all existing buildings, driveways, patios, fences and accessory structures;
  - [b] The locations of property lines with bearings and distances clearly marked;
  - [c] The locations of all monuments, stakes or other permanent boundary markers;
  - [d] Underground and overhead utilities;
  - [e] The locations of all easements, if applicable;
- [3]. Proposed site or plot plan, showing the location of all proposed buildings, accessory structures, driveways or other paved areas;
  - [4]. Floor plans, fully dimensioned, of each level, which shall include, but not be limited to, basements, cellars, mezzanines and attics, and labeling of all interior spaces with their uses;
  - [5]. 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);
    - [e] Proposed finish materials for all exterior surfaces;
  - [6]. Short environmental assessment form;
  - [7]. Disclosure affidavit from applicant;
- (b) For additions or alterations of one- and two-family residential structures or construction of fences, sheds or other accessory structures:
- [1]. Title page, which shall include the following:
    - [a] Key map showing clearly and accurately the location of the property in relation to the neighboring streets;
    - [b] Zoning/site data analysis which shall include zoning district; permitted and proposed data for all zoning criteria, including, but not limited to, floor areas,

lot coverage, building height, and a depiction of the required sky exposure plane;

[c] Name and address of the applicant, and the name and address of the owner of the site, if different from the applicant;

[d] Name(s) and contact information of the professional engineer, land surveyor, architect, landscape and/or land planner involved in preparing the plans.

[2]. Survey or plot plan of existing conditions, prepared by a New York State licensed land surveyor at a scale of one inch equals 40 feet or larger, showing at a minimum the locations of all existing buildings, driveways, patios fences and accessory structures;

[3]. Proposed site plan, showing the location of all proposed buildings, fences, accessory structures, driveways or other paved areas;

[4]. Floor plans, fully dimensioned, of each level, which shall include, but not be limited to, basements, cellars, mezzanines and attics, and labeling of all interior spaces with their uses;

[5]. Building elevations, if applicable, which shall include the following:

[a] Existing and proposed grades;

[b] Finished floor elevations for each level;

[c] Building height elevation(s);

[d] Proposed finish materials for all exterior surfaces.

[6]. Details or specifications of any fencing material, if applicable.

(c) For applications for new multiple residence, commercial or other nonresidential structures:

[1]. Title page, which shall include the following:

[a] Key map showing clearly and accurately the location of the property in relation to the neighboring streets;

[b] Zoning/Site data analysis which 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 areas as required in this chapter;

- [c] Names of the appropriate water and sewer districts;
  - [d] 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] Name(s) and contact information of the professional engineer, land surveyor, architect, landscape architect and/or land planner involved in preparing the plans;
  - [f] Area map of the subject site and all properties within radius of 300 feet of any contiguous property owned by the applicant. The area map must be accurately drawn to scale and 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.
- [2]. Survey of existing conditions, prepared by a New York State licensed land surveyor at a scale of one inch equals 40 feet or larger, showing at a minimum:
- [a] The locations of all existing buildings, driveways, patios, fences and accessory structures;
  - [b] The locations of property lines, with bearings and distances clearly marked;
  - [c] The locations of all monuments, stakes or other permanent boundary markers;
  - [d] Underground and overhead utilities;
  - [e] The locations of all easements, if applicable.
- [3]. Schematic site plan, which shall include the following:
- [a] Location and arrangement of all buildings and structures;
  - [b] All proposed parking and loading facilities, access aisles, and all pavement markings, fully dimensioned;
  - [c] 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;
  - [d] Any proposed right-of-way improvements or road widening;
  - [e] Arrangement of pedestrian traffic access and circulation, including, but not limited to, walkway structures, and handicapped accessibility;

- [f] Location and type of equipment provided for storage and disposal of garbage and refuse; if the application is for a restaurant, delicatessen, retail grocery or other food-related use, the plan must show the location of the required interior refrigerated refuse locker.
  - [4]. Floor plans, fully dimensioned, of each level, which shall include, but not be limited to, basements, cellars, lobbies, mezzanines and attics, and labeling of all interior spaces with their uses; seating diagrams and emergency egress plans are required for all places of assembly.
  - [5]. Building elevations and sections, 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 to adequately analyze the site development;
    - [e] Proposed finish materials for all exterior surfaces;
    - [f] Scale drawings indicating the design, color and material of all signs, accompanied by an explanation of the lighting mechanism.
  - [6]. Perspective drawing(s) of all principal buildings;
  - [7]. Schematic landscape, grading, drainage and lighting plans;
  - [8]. Full environmental assessment form in the format required by the State Environmental Quality Review Act;
  - [9]. Traffic **and parking** analysis, including capacity and level-of-service for the nearest signalized intersection(s) **to be submitted to the office of the Board of Zoning Appeals no later than the filing deadline of the hearing on which the application is to be heard;**
  - [10]. Disclosure affidavit from applicant.
- (d) For additions or alterations of multiple residence, commercial or other nonresidential structures or variances for nonresidential uses:
- [1]. Title page, which shall include the following:

- [a] Key map showing clearly and accurately the location of the property in relation to the neighboring streets;
  - [b] Zoning/Site data analysis which 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 areas as required in this chapter;
  - [c] Names of the appropriate water and sewer districts;
  - [d] 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] Name(s) and contact information of the professional engineer, land surveyor, architect, landscape architect and/or land planner involved in preparing the plans;
  - [f] Area map of the subject site and all properties within radius of 300 feet of any contiguous property owned by the applicant. The area map must be accurately drawn to scale and 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.
- [2]. Survey of existing conditions, prepared by a New York State licensed land surveyor at a scale of one inch equals 40 feet or larger, showing at a minimum:
- [a] The locations of all existing buildings, driveways, patios, fences and accessory structures;
  - [b] The locations of property lines, with bearings and distances clearly marked;
  - [c] The locations of all monuments, stakes or other permanent boundary markers;
  - [d] Underground and overhead utilities;
  - [e] The locations of all easements, if applicable.
- [3]. Schematic site plan, which shall include the following:
- [a] Location and arrangement of all buildings and structures;
  - [b] All proposed parking and loading facilities, access aisles, and all pavement markings, fully dimensioned;

- [c] 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;
  - [d] Any proposed right-of-way improvements or road widening;
  - [e] Arrangement of pedestrian traffic access and circulation, including, but not limited to, walkway structures, and handicapped accessibility;
  - [f] Location and type of equipment provided for storage and disposal of garbage and refuse; if the application is for a restaurant, delicatessen, retail grocery or other food-related use, the plan must show the location of the required interior refrigerated refuse locker.
- [4]. Floor plans, fully dimensioned, of each level, which shall include, but not be limited to, basements, cellars, lobbies, mezzanines and attics, and labeling of all interior spaces with their uses; seating diagrams and emergency egress plans are required for all places of assembly.
- [5]. Building elevations and sections, 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 to adequately analyze the site development;
  - [e] Proposed finish materials for all exterior surfaces;
  - [f] Scale drawings indicating the design, color and material of all signs, accompanied by an explanation of the lighting mechanism.
- [6]. Perspective drawing(s) of all principal buildings;
- [7]. Schematic landscape, grading, drainage and lighting plans;
- [8]. Full environmental assessment form in the format required by the State Environmental Quality Review Act;
- [9]. ~~Traffic analysis, including capacity and level of service for the nearest signalized intersection(s)]~~ **A trip generation and parking analysis, to be submitted to the office of the Board of Zoning Appeals no later than the**

**filing deadline of the hearing on which the application is to be heard, including capacity and level-of-service analysis for the nearest signalized intersection(s) except for applications where one or more of the following conditions apply;**

**[a] A reduction in required parking from previous use or tenant;**

**[b] An increase of less than 2 parking spaces from the previous use or tenant;**

**[c] No variances for parking or loading;**

[10]. [~~Disclosure affidavit from applicant~~] **For applications projected to create 100 or more trips per hour by the most current Institute of Transportation Engineers Trip Generation Manual in the year of the application, a traffic analysis, including capacity and level-of-service for the nearest signalized intersection(s) shall be required, and submitted to the office of the Board of Zoning Appeals no later than the filing deadline of the hearing on which the application is to be heard.**

[11]. **A trip generation and parking analyses, to be submitted to the office of the Board of Zoning Appeals no later than the filing deadline of the hearing on which the application is to be heard, shall be required for all applications involving a variance from § 70-103;**

[12]. **Disclosure affidavit from applicant.**

(2) 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.

### **Section 31.**

Subsection D of Section 70-227 of Chapter 70 of the Town Code is hereby amended as follows:

D. Hearing and notice requirements.

(1) The Secretary to the Board of Zoning and Appeals shall publish notice of the public hearings for a variance, appeal for determination or conditional use permit in the local newspapers at least 10 days before the hearing date. The notice shall identify the property affected by stating the section, block, lot and street address and shall also state the date, time and place of the hearing.

(2) Before the application will be heard, the applicant must provide notice of the hearing of the property owners within a radius of 300 feet of the site, in a manner provided herein, and must file an affidavit as to the mailing of such notices with the Secretary to the Board of Zoning and Appeals not less than five days prior to the hearing. Not less than 10 nor

more than 20 days before the hearing, the applicant shall send, by first-class and by registered or certified mail, a notice to each affected owner identifying the subject property, stating the nature of the application and the date, time and place for the hearing. For application for additions and alterations to one- or two-family residential structures, **and sign variances** notice may be provided to only the adjoining property owners **and the owner of properties directly across the nearest right-of-way(s)**.

(3) Sign notice requirements for Board of Zoning and Appeal applications.

(a) For all commercial applications, with the exception of applications for signs, and for all applications for new homes and for subdivisions, the following requirements shall apply:

- [1]. Sign notice shall be given by the property owner of the subject property by posting a sign stating the nature of the application, and the time, date, and place of the public hearing to be held by the Board of Zoning and Appeals on the property which is the subject of an application.
- [2]. The sign shall be posted at least 10 days prior to the date of the public hearing to be held by the ~~Town Board~~ **Board of Zoning and Appeals**.
- [3]. The sign shall be visible from adjacent rights-of-way, including waterways.
- [4]. If the subject property is on more than one right-of-way, a sign shall be posted facing each right-of-way.
- [5]. If the sign is destroyed or removed from the property, the owner of the subject property shall be responsible for replacing it.
- [6]. The sign shall be no less than 34 ~~feet~~ **inches** by 48 ~~feet~~ **inches** in size.
- [7]. Five days prior to the public hearing, the owner of the subject property shall execute and submit to the ~~Department of Planning~~ **Secretary to the Board of Zoning and Appeals** an affidavit of proof of the positing of the public notice sign(s) according to this section. If the owner of the subject property fails to submit the affidavit, the public hearing will be postponed until after the affidavit has been supplied.
- [8]. Section 227D(3)(a) shall apply to all Board of Zoning Appeals applications which have been adjourned

## **Section 32.**

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



For the purpose of this chapter, the terms used herein are defined as follows:

ABATTOIR

A slaughterhouse for the slaughtering of livestock other than poultry.

ACCESSORY APARTMENT

A separate space within a one-family dwelling, or a structure on property on which exists a one-family dwelling, which is wholly or partly used or arranged, designed or intended to be occupied or used for living or sleeping by one or more human occupants.

ACCESSORY BUILDING OR USE

A subordinate building or use customarily incidental to and located on the same lot occupied by the main building or use.

AFFORDABLE SENIOR CITIZEN FACILITY

A residential dwelling unit made available for sale or rent such that the shelter portion of the housing cost is below the market price of such units, to be determined as follows:

- A. Units for rent. Rent shall not exceed 80% of the county median income, as determined by the United States Department of Housing and Urban Development (HUD), times 30%.
- B. Units for sale. Sales price shall not exceed 45% of the average sales price of single-family homes in the county for the prior 12 months, and be for sale to households whose income is 80% of the county median income as determined by HUD.

AGRICULTURE

The cultivation of the soil for food products or other useful or valuable growths, crops or products of the field or garden, tillage or husbandry, but shall not include dairying, raising of livestock, fowls or birds where the same is carried on as a gainful operation.

ALL-SUITE HOTEL

A commercial building primarily for transient guests and having one or more of the following: lounge, meeting/conference room, dining room and kitchen for the serving of food to be consumed primarily in said dining room. All guest rooms shall contain a sitting room, separate bedroom and the provision of limited kitchen facilities.

ALTERATION

As applied to a building or structure, the change or rearrangement of the structural parts or any enlargement, whether by extending on any side or by increasing in height, or the moving from one location to another. It does not include ordinary repairs to buildings or structures.

AMUSEMENT ARCADE

Any premises where three or more amusement devices are available for operation.

## AMUSEMENT DEVICE

Any coin- or token-operated machine, apparatus or contrivance which is used or which may be used as a game of skill or amusement wherein or whereby the player initiates, employs or directs any force or action to, or generated by, the machine, including, but not limited to billiard tables; casino-type games; computerized games; electronic bowling; electronic shuffleboard; pinball machines; shooting galleries; and skill boards. "Amusement devices," for the purpose of this chapter, shall not include bowling alleys and duckpin bowling alleys.

## ATTIC

The space between the ceiling joists of the top story and the roof rafters. An attic shall not be used or occupied as living or sleeping quarters. There shall be no **new** fixed stair to any [new] attic space nor operable windows. Attics shall not have finished floors or heating systems. Attics over one-story extensions shall count as additional gross floor area if the height from the joist to the underside of the ridge is greater than five feet. Horizontal access to attics shall be limited to nine square feet.

Notwithstanding the foregoing, an attic may be permitted to be constructed as, or converted into, habitable or occupiable space where the requirements of the district would permit a full story; provided, however, that the attic shall be counted as gross floor area when used as habitable or occupiable space.

## BAR AND GRILL

Any business use in which the primary service offered is the sale of alcoholic beverages for consumption on the premises, regardless of whether food is also served and entertainment of any type is offered.

## BASEMENT

That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, above the average established finished grade of the ground adjoining the building.

## BELOW-GRADE PARKING STRUCTURE

An accessory use in which the final paved surface is located more than 24 inches below the preexisting grade of a building site, and that provides for the parking of vehicles, including drive aisles, and which may include loading areas.

## BILLBOARD or POSTER PANEL

A sign erected and maintained by an outdoor advertiser.

## BLOCKFRONT

The street and the space surrounding it, including the buildings and open space fronting on both sides of the streets.

## BOATEL

A hotel on a waterfront with docks for use by boaters.

### BUILDING

A combination of materials other than a structure to form a construction that is safe and stable and adapted to permanent or continuous occupancy for public, institutional, residence, business or storage purposes; the term "building" shall be construed as if followed by the words "or part thereof."

### BUILDING DEPARTMENT

The Building Department of the Town of North Hempstead.

### BUILDING HEIGHT

The vertical distance measured from the average level of the preexisting grade at the perimeter of the building to the highest point of the roof.

### BUILDING OFFICIAL

The officer or other person specifically charged by the Town Board with the administration and enforcement of this chapter, or his duly authorized representative.

### CARETAKER UNIT

An accessory living space within a historic building, structure or dwelling intended as a primary residence for the person or family responsible for the maintenance, upkeep and/or security of the building or site. Caretaker units may comprise up to 50% of the gross floor area of the building, and may have a separate entrance.

[Added 9-10-2013 by L.L. No. 4-2013]

### CELLAR

That portion of a building with half or more of its floor-to-ceiling height below the average level of the adjoining ground. A "cellar" shall not be used or occupied [as living] **for cooking** or sleeping quarters **but may be used as recreational space when in compliance with the requirements of the NYS Uniform Fire Prevention and Building Code.**

### CHILD-CARE FACILITY

Any program or facility providing care for children for more than three hours but less than 24 hours per day per child on a regular basis away from the child's residence, in which care is provided by someone other than the parent, step-parent, guardian or other relative within the third degree of consanguinity of the parent or step-parent.

- A. This definition shall apply whether or not care is given for compensation.
- B. This definition shall include any facility that provides child-care services as defined in § 390 of the New York State Social Services Law.

C. This definition shall not include child-care facilities located in private dwellings and multiple-dwelling units licensed and operated in accordance with the regulations set forth by the New York State Office of Children and Family Services.

D. Medical care or delinquency correction may not be the principal use of the facility.

E. Child-care facilities shall be licensed by and operated in accordance with the regulations set forth by the New York State Office of Children and Family Services.

#### CODE ENFORCEMENT OFFICER

The officer or other person specifically charged by the Town Board with the administration and enforcement of this chapter, or his duly authorized representative.

[Added 11-16-2010 by L.L. No. 15-2010]

#### COMMERCIAL PARKING LOT

Any lot or premises, other than one owned or maintained by the municipality, used for parking automobiles or other motor vehicles by the public upon the payment of a fee, whether or not such use is an accessory use.

#### CONCRETE RECYCLING OPERATION

A facility used for the collection and processing and/or crushing of uncontaminated concrete waste for conversion to recycled concrete aggregate.

[Added 8-9-2016 by L.L. No. 6-2016]

#### CONVENIENCE STORE

A retail sales area that offers for sale prepackaged food or beverages, and may allow for cooking and preparation of ready-to-serve food, for off-site consumption. A convenience store shall co-locate or coexist only with a gasoline service station or automobile service station, and only as approved by the Town Board.

[Amended 3-22-2016 by L.L. No. 3-2016]

#### CORNER LOT

A lot situated at the intersection or junction of two or more streets.

#### CORRAL

An outdoor accessory structure for the storage of shopping baskets, carts and wagons that is made available for use by the shopping public and for the secure storage of carts during hours when the business is closed.

[Added 3-8-2011 by L.L. No. 4-2011]

#### COURT

A required open and unoccupied space on the same lot and enclosed on at least three sides by walls of a building.[1]

## DEPARTMENT OF HEALTH

The Department of Health of the County of Nassau and any other health board or department established pursuant to the laws of the State of New York and entrusted with the regulations, control and/or supervision of matters pertaining to and affecting the public health in the Town of North Hempstead.

## DEPTH OF A LOT

The mean distance from the street line of the lot to its opposite rear line, measured along the side lines of the lot.

## DISPLAY SURFACE

The total number of square feet of sign space on one side of a sign, exclusive of moldings.

## DRIVE-THROUGH FACILITY

A business, establishment, building or other structure intended, in whole or in part, to accommodate in-vehicle customer service. Such facilities shall also include, but not be limited to, establishments such as drive-through oil change and/or car wash operations, which utilize a drive-through lane or lanes, but perform their services while customers wait outside their motor vehicles, and establishments that provide in-vehicle customer service via a freestanding box.

## DWELLING

A building containing not more than two dwelling units occupied principally for residential uses.

## DWELLING UNIT

A portion of a row dwelling housing not more than one family.

## EAVE HEIGHT

The top of the uppermost wall plate **or other horizontal structural member providing bearing and anchorage for the roof rafters or roof trusses**, as measured from the average level of the preexisting grade at the perimeter of the building. **The top wall plate or other horizontal structural roof support member of decorative doghouse dormers that do not exceed 6 feet in width shall not be limited as an eave height.**

## ELEEMOSYNARY

A not-for-profit organization, public or private, primarily engaged in charitable activities or primarily supported by charitable contributions.

## ELECTRONIC CIGARETTE

A device containing a liquid or other substance that is vaporized and inhaled for the purpose of simulating the experience of smoking.

[Added 8-9-2016 by L.L. No. 7-2016; amended 11-20-2018 by L.L. No. 10-2018]

## ELECTRIC VEHICLE CHARGING STATION

A system for the charging of an electric vehicle. Components typically include a charging kiosk and transformer.

[Added 5-13-2014 by L.L. No. 7-2014]

## ERECTED

Includes constructed, reconstructed, altered, placed or moved.

## EXISTING BUILDING

A building erected prior to the effective date of this chapter.

## FAMILY

One individual or a collective group of individuals either:

A. Related to each other by blood, marriage or adoption who live together in the same dwelling unit, cook together and function as a single, stable housekeeping unit with common access to all rooms and facilities; or

B. Not related by blood, marriage or adoption but who together constitute the functional equivalent of a natural family, all living together in the same dwelling unit, cooking together and generally functioning as a single, stable housekeeping unit, all with common access to all rooms and facilities, with no member or members of such group subletting, subleasing or otherwise controlling any part of the dwelling separately from the others.

## FOOD SERVICE

See definition of "restaurant" contained in this section.

## FRONT OF BUILDING

On an interior lot, the exterior wall facing the street. The "front of a building" on a corner lot is the exterior wall where the main entrance is established.[2]

## FRONT YARD

A yard across the full width of the lot extending from the front line of the building to the front line of the lot measured between the side property lines.

## FRONT YARD, PRIMARY

The front yard with the narrower street frontage. For lots having equal street frontage, the primary front yard shall be the front yard where the main entrance is established.

[Added 7-10-2012 by L.L. No. 11-2012]

## GASOLINE SERVICE STATION or AUTOMOBILE SERVICE STATION (used synonymously in this chapter)

The use of premises for the dispensing of motor fuels, lubricants and other materials used in the operation of motor or other vehicles and/or where minor repairs to motor or other vehicles are made.

#### GASOLINE SERVICE STATION/CONVENIENCE STORE

The co-location of a gasoline service station and a convenience store, only as approved by the Town Board. No use other than a convenience store may coexist or co-locate with a gasoline service station. A gasoline service station/convenience store contains a convenience store that offers for sale food or beverages, in conjunction with the sale of automotive fuel. Other prepackaged goods, household items, automotive fluids and wiper blades, automotive cleaning supplies, oils, waxes and windshield fluids, newspapers and magazines may also be sold at a gasoline service station/convenience store.

[Amended 3-22-2016 by L.L. No. 3-2016]

#### GROSS FLOOR AREA (NONRESIDENTIAL)

The sum of the gross horizontal areas of the several floors of a building, including interior balconies and mezzanines and attics over one-story extensions where the height from the joist to the underside of the ridge is greater than five feet, but excluding exterior balconies. All horizontal dimensions of each floor are to be measured from the exterior faces of the walls of each such floor, including roofed porches having more than one wall. The "gross floor area" of accessory buildings shall include the floor area of accessory buildings on the same lot, measured the same way. In computing the "gross floor area," there shall be excluded any floor area of a story whose ceiling is less than four feet above grade at the nearest building line and attic space having a headroom of less than seven feet, provided that those areas are nonhabitable and are used for storage or mechanical equipment.

[Amended 1-29-2019 by L.L. No. 3-2019]

#### GROSS FLOOR AREA (RESIDENTIAL)

The sum of the gross horizontal area of all floors or stories of a dwelling as measured to the outside face of the exterior wall inclusive of all exterior facing as well as attached garages, enclosed porches and roofed porches having more than 50% of the perimeter enclosed or screened, attics over one-story extensions where the height from the joist to the underside of the ridge is greater than five feet, all habitable and occupiable attics, and basement areas with ceiling heights in excess of seven feet or greater. Basement areas with a maximum ceiling height of eight feet shall not be included in the gross floor area in all residential building permit applications or amendments submitted prior to December 21, 2007. Attics that are nonhabitable and nonoccupiable and cellars shall be excluded from the gross floor area. The gross floor area of detached garages greater than 300 square feet shall be included in their entirety. Gross floor area in dwellings for areas exceeding 12 feet in height shall be counted at 2.0 times the actual floor area except in garages.

#### GROUND OR FIRST STORY

The lower story entirely above the average level of the ground surrounding a building.

#### GROUND SIGN and POLE SIGN

A "ground sign" is one securely fastened to the ground by means of two or more supporting posts. A "pole sign" is one attached to the upper part of a single pole securely fastened to the ground.

#### GROUP GARAGE

A building, one story in height, divided into separate units or with a common means of access, used for the storage of noncommercial automobiles, but not used for servicing or making repairs to automobiles.

#### HABITABLE FLOOR AREA IN A DWELLING

Rooms occupiable by one or more persons for living, eating and/or sleeping, but not including garages, attics, open porches or terraces, or rooms in cellars. On the first floor, it shall be construed to mean all finished floor area having a clear headroom of 7 1/2 feet or over, including stairwells; on all floors above the first, it shall include all finished or unfinished floor area having a clear headroom of 7 1/2 feet or over for a minimum horizontal measurement of six feet, including all floor area with a height of 5 1/2 feet or greater.

#### HALF STORY

A half story is that part of any building above a story and having at least two opposite exterior walls meeting a sloping roof at a level no higher above the floor than 1/2 the floor-to-ceiling height of the story below. **The exterior walls of decorative doghouse dormers not exceeding 6 feet in width shall be permitted to exceed the 1/2 floor-to-ceiling height limit on the low sides of a half story.**

#### 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.

#### INDOOR SMOKING ESTABLISHMENT

Any facility or location whose business operation, whether as its principal or accessory use, includes the indoor smoking of tobacco in any form, electronic cigarettes, vapors, e-liquids, other legal marijuana derivatives or other substances. Smoking is the inhalation of the smoke of burning tobacco encased in cigarettes, pipes, cigars, and pipes commonly known as "hookah," "waterpipe," "shisha," and "narghile" or any similar device, or the inhalation of vapors produced by an electronic cigarette or other device.

[Added 8-9-2016 by L.L. No. 7-2016]

#### INDUSTRIAL PARK



A special or exclusive type of planned industrial area designed and equipped to accommodate a community of industries, providing them with all necessary facilities and services in attractive surroundings among compatible neighbors.

#### INDUSTRY

The manufacturing, fabricating, finishing, assembly, treating or processing of articles to be sold at wholesale or retail on a scale exceeding a maximum of five horsepower and requiring more than five operators.

#### INTERIOR LOT

A lot other than a corner lot.

#### JUNKYARD

The use of any space, whether open or enclosed, for the collecting, handling, sale, discarding, wrecking, salvage, storage, keeping or abandonment of worn, salvaged, dismantled, used or discarded wastepaper, junk, rags, scrap, metals, materials, articles, equipment, machinery, vehicles inoperative or not intended to be repaired or any parts thereof.

#### LANDBANKED PARKING AREA

A designated area or areas on a plot specifically allocated and designed for parking but which is not immediately developed as such. The location of landbanked parking areas shall be in conformance with all restrictions relating to required parking and to any other restrictions specified within this chapter or by any decision of a board or commission having jurisdiction over a specific application.

#### LODGE

A building used by fraternal organizations.

#### LOT

Includes plot, tract, premises or parcel of land, with or without buildings or structures located thereon, as surveyed and apportioned for sale or other purpose.

#### LOT AREA

The area of a lot measured within the boundaries thereof.

#### LOT COVERAGE

The area of the maximum horizontal cross section of the buildings on a lot, excluding cornices, eaves, gutters or chimneys projecting not more than 24 inches, steps, one-story open porches, bay windows extending not more than one story and projecting not more than five feet, balconies and terraces.

#### MAIN BUILDING

The building which houses the principal purpose for the utilization of the lot, as permitted under this chapter.

## MAINTAIN EXISTING

As used in the Building Department fee schedule established pursuant to § 2-28C, an application for a building permit for construction, changes, alterations, improvements or modifications which had been previously completed without the required permit(s) and inspections.

## MARIJUANA

Shall have the same definition ascribed to "marihuana" in § 3302 of the New York Public Health Law.

[Added 11-20-2018 by L.L. No. 10-2018]

## MARIJUANA PRODUCT

Marijuana and/or any material, substance or other thing derived (in any manner) from marijuana or which contains marijuana as a component part in any amount or concentration.

[Added 11-20-2018 by L.L. No. 10-2018]

## MARIJUANA RETAIL STORE

A building, structure or premises engaged in the sale, use or distribution of marijuana and/or marijuana products for nonmedical use. A building, structure or premises shall be considered a marijuana retail store regardless of whether products in addition to marijuana products are offered for sale, use or distribution at the building, structure or premises and regardless of the amount of marijuana or marijuana products available for sale, use or distribution at the building, structure or premises in comparison to other products offered for sale, use or distribution at the building, structure or premises.

[Added 11-20-2018 by L.L. No. 10-2018]

## MARINA

A dock or a commercial mooring area, operated for profit or to which public patronage is invited, providing mooring or docking facilities for boats or vessels.

## MARINE

Of or pertaining to the open water, i.e., a bay, harbor, sound, river or lake.

## MATERIAL CRUSHING

The crushing of stone, gravel, brick, concrete, slate, granite, sedimentary rock, igneous rock, metamorphic rock, asphalt, tile, adobe, clay, conglomerate rock or any similar material.

[Added 8-9-2016 by L.L. No. 6-2016]

## MEDICAL MARIJUANA

Shall have the same definition ascribed to medical marijuana in § 3360 of the New York Public Health Law.

#### MEDICAL MARIJUANA DISPENSARY

A building, structure or premises authorized by the New York State Department of Health to dispense or distribute medical marijuana in accordance with Article 33 of the Public Health Law and Part 1004 of Title 10 of the New York Codes, Rules and Regulations. **Medical Marijuana Dispensaries shall not be used as places of public assembly.**

#### MEDICAL OFFICE

**The office of one or more professionals licensed by NYS to diagnose and/or treat ailments, illnesses, and conditions, whether physical or mental, and/or prescribe drugs in accordance with NYS Education Law. Such offices contain one or more of the following features; waiting room, reception, examination rooms, and with scheduling typically by appointments. This definition shall include but not be limited to the offices of; Physicians (M.D. or D.O.), Dentists (D.D.S.), Veterinarians (V.M.D.), Optometrists (O.D.), Physical Therapists (D.P.T.), and Psychiatrists & other Mental Health Practitioners (M.D. or D.O.). Medical offices shall also include facilities that dispense controlled substances pursuant to NYS Public Health Law beyond those that may be dispensed by a Pharmacist. Medical offices shall not be used as places of public assembly.**

#### MIXED USE

The combination of retail or office use, accessible to the public, with residential use in the same structure.

#### MOTHER-DAUGHTER RESIDENCE

A. A one-family home or residence altered to include an apartment for which a conditional use permit shall have been duly approved by the Board of Zoning and Appeals pursuant to § 70-225B(6) and which complies with the following conditions:

- (1) The apartment is no larger than 700 gross square feet;
- (2) The cooking facilities in the apartment do not exceed 60 square feet;
- (3) The fee owner resides within the premises;
- (4) The apartment resident is either the parent or the child of the fee owner;
- (5) The premises do not have a separate entrance for the exclusive use of the apartment;
- (6) There is no exterior stairway to the second floor of the building;
- (7) The premises have only one set of stairs leading from any one floor to any other floor;

- (8) The premises are served by only one meter for each utility supplied; and
- (9) There is no exterior deck attached to any floor above ground level.

B. If any of the conditions listed above cease to exist, then the premises shall cease to be a mother-daughter residence, the conditional use permit shall expire immediately and the cooking facilities shall be removed in accordance with § 70-225B(6).

#### MOTOR VEHICLE REPAIR SHOP

A use or building or portion of a building in which mechanical, electrical or other similar power is used in the repair of motor vehicles or in which commercial motor vehicle repair work is done.

#### MULTIPLE-FAMILY DWELLING

A residence building accommodating three or more families living independently of each other and allowed to do their own cooking on the premises.

#### NEW CASSEL URBAN RENEWAL AREA

The area identified by the Town Board of the Town of North Hempstead for the undertaking of urban renewal activities pursuant to the New Cassel Urban Renewal Plan.

#### NEW CASSEL URBAN RENEWAL OVERLAY DISTRICT or OVERLAY DISTRICT

The overlay district established pursuant to and governed by Article XXB of this chapter.

#### NEW CASSEL URBAN RENEWAL PLAN

The urban renewal plan, as same may be amended from time to time, formulated and considered in accordance with Article 15 of the General Municipal Law, and approved by the Town Board of the Town of North Hempstead at its meeting held on August 12, 2003, pursuant to Resolution No. 280-2003.

#### NEW CASSEL VISION PLAN

The document entitled "Seeking a Shared Vision for New Cassel-New Cassel Vision Plan," which was accepted by the Town Board of the Town of North Hempstead pursuant to Resolution No. 98-2003, adopted at its meeting held on March 11, 2003.

#### NONCONFORMING BUILDING

A building which lawfully existed prior to the enactment of this Code, or any amendment thereto, and which is maintained after the effective date thereof although it does not conform to the area and setback regulations of the district in which it is located (i.e., lot area, width or depth; front, side or rear yards; maximum height; lot coverage; etc.).

[Amended 7-10-2012 by L.L. No. 11-2012]

#### NONCONFORMING USE

A use, whether of a building or tract of land, or both, which lawfully existed prior to the enactment of this Code, or any amendment thereto, and which is maintained after the

effective date thereof although it does not conform to the use regulations of the district in which it is located.

[Added 7-10-2012 by L.L. No. 11-2012]

#### NONPERMITTED SUBSTANTIAL AMENDMENT

As used in the Building Department fee schedule established pursuant to § 2-28C, where substantive changes, modifications, alterations or improvements were made to the work contemplated in the approved building permit and/or plans and specifications which accompanied same, and for which substantive changes, modifications, alterations or improvements were performed without the filing of a new building permit application.

#### NURSERY SCHOOL

A social and educational program, not located in a private residence, that provides care for three- to five-year olds, and often follows a school-year schedule. Care is restricted to a maximum of three hours per day per child.

#### NURSING HOME

A skilled nursing facility licensed by the State of New York to provide full-time convalescent or chronic health care under medical supervision to individuals of any age who are unable to fully care for themselves, but not including facilities for surgical care or institutions dedicated to the care and treatment of mental illness, alcoholism or narcotics addiction. No nursing home shall contain any uses other than those permitted pursuant to applicable regulations of the State of New York and the nursing home's operating certificate issued pursuant thereto.

#### OPEN PORCH

A roofed open structure projecting from the outside wall of a building without a window sash or any other form of enclosure.

#### OPEN SPACE

The area on a lot that is not covered by structures or paving for parking of automobiles and the access to that parking. Open space includes all landscaped area and patios on grade.

#### PARKING SPACE

The off-street paved or surfaced area available and usable for the parking of one motor vehicle, having dimensions of not less than 10 feet by 20 feet, exclusive of aisles, driveways, passageways and other necessary space appurtenant thereto and having direct usable access to a street. In satisfying the off-street parking requirements as set forth in § 70-103, for nonmedical office use and industrial use, up to but not exceeding 20% of the off-street parking spaces may have dimensions of not less than nine feet by 18 feet and shall be so designated. With respect to all other uses, all off-street parking spaces must have dimensions of not less than 10 feet by 20 feet. Whenever parking requirements are calculated on the basis of floor area or space, all calculations should be made using the gross floor area, as defined in § 70-231.

## PERSON

Includes individual, firm, corporation, partnership, association or other agency of voluntary action.

## PORTABLE SHED

A structure of no more than 144 square feet, with a maximum height of 10 feet, not having a firm attachment to the ground, for the storage of garden and recreational equipment.

[Amended 1-29-2019 by L.L. No. 3-2019]

## PREEXISTING GRADE

The elevation of the land prior to commencement of any alteration, grading or construction at the premises.

## PREMISES

Includes the land and all buildings or structures thereon.

## PRIMARY BUILDING

The building which houses the principal purpose for the utilization of the lot, as permitted under this chapter, excluding any accessory building or permitted encroachments as defined in § 70-101.

[Added 7-10-2012 by L.L. No. 11-2012]

## PRIVATE GARAGE

A detached accessory building or part of the main building used for the storage of not more than two noncommercial automobiles or one commercial vehicle and one noncommercial automobile, owned and used by the occupant of the plot on which the main building is erected and in which no business or service is conducted. Any such commercial vehicle must be kept within the garage at all times and shall not contain any flammable, combustible, explosive, toxic or offensive-smelling material. Such accessory structure shall not exceed 26 feet in width and 24 feet in depth, with garage doors not to exceed eight feet in height.

## PROCESSING (OF YARD WASTE)

**When specified in reference to yard waste, the term Processing shall mean the** practice of removing easily discernable contaminants from incoming yard waste loads, prior to the transfer of yard waste to permitted composting centers or other types of permitted organic recycling facilities.

## PROFESSIONAL OFFICE

An office maintained by a doctor, dentist, lawyer, teacher, artist, architect, engineer, accountant, ophthalmic dispenser or musician in the dwelling in which such person resides, provided that such office does not occupy more than 50% of the habitable floor

space on the first floor or more than 25% of the habitable floor space of a one-story dwelling and not more than one assistant or employee is employed by such person, and further provided that there is no alteration or change to the exterior of such dwelling which modifies its residential character or use, or the use thereof has no feature which is offensive, annoying or harmful to public health, safety or general welfare by reason of noise, glare, vibration, odor, radiation, dust, fumes or undue traffic.

#### PUBLIC GARAGE

A use or building, or portion of a building, used for the commercial storage, rental and/or minor repair of motor vehicles.

#### PUBLIC HOUSING

A building, portion of a building or group of buildings that provides dwellings in a residential environment, subject to the regulations set forth in Article IX of this chapter, and which is owned or operated by one of the following:

[Added 6-29-2010 by L.L. No. 7-2010]

- A. The North Hempstead Housing Authority; or
- B. An entity that is working under contract with the North Hempstead Housing Authority; or
- C. A limited partnership whose general partner is the North Hempstead Housing Authority or an entity owned, operated and controlled by the North Hempstead Housing Authority.

#### REAR YARD

A yard across the full width of the lot extending from the rear line of the building to the rear line of the lot, measured between the side property lines.

#### RESIDENCE UNIT

A portion of a residence building housing not more than two families and separated from another unit by a party wall. Such unit shall be considered a separate building.

#### RESTAURANT

A business engaged in the preparation and sale of food and beverages for consumption either on or off the premises that is not a retail food use.[3]

[Amended 3-20-2018 by L.L. No. 2-2018]

#### RETAIL FOOD USE

A retail establishment which cooks, prepares and sells ready-to-serve food and may offer for sale prepackaged food or beverages primarily for off-premises consumption, which may have no more than 12 seats.

[Added 3-20-2018 by L.L. No. 2-2018]

## RETAINING WALLS

All walls and other structures of any construction which are intended to, or which in fact, retain or support adjoining earth or rock.

## ROW DWELLING

A building consisting of noncommunicating one-family dwelling units, each having its own front and rear entrance. Where a row dwelling contains more than two dwelling units, the walls separating dwelling units shall be constructed and have fire-resistant ratings as follows: The wall separating the second and third dwelling units shall be constructed of wire lath and cement plaster having a fire-resistant rating of not less than one hour. The wall separating the fourth and fifth dwelling units shall be of eight-inch masonry construction with a fire-resistance rating of not less than four hours. Similar construction of separating walls shall continue throughout the building, so that for a row dwelling containing the maximum of 16 families, there shall be four separating walls of wire lath and cement plaster and three separating walls of eight-inch masonry. The determination of the location of separating walls as required herein may be made from either the left or right exterior sidewalls of the building.

## SANATORIUM

An institution other than one required to be licensed under the Mental Hygiene Law of the State of New York.

## SENIOR ASSISTED-LIVING FACILITY

A building, portion of a building or group of buildings that provide dwellings in a residential environment where individual cooking facilities are limited to microwave ovens and/or cooktops, with assistance available by way of common meals, housekeeping and personal services. Occupancy is restricted to persons 62 years of age or older or couples, one of whose member is 62 years of age or older who may have difficulties with one or more essential activities of daily living, such as feeding, bathing, dressing or mobility.

## SENIOR CITIZEN FACILITY

A facility intended to provide for the specialized living and/or daily caregiving needs of persons 62 years of age or older, including senior independent-living facilities, senior congregate-housing facilities, senior assisted-living facilities and senior day-care facilities, except as described in § 70-95.1C.

[Amended 10-21-2014 by L.L. No. 17-2014]

## SENIOR CONGREGATE-LIVING FACILITY

A building, portion of a building or group of buildings containing three or more dwelling units where individual cooking facilities are limited to microwave ovens and/or cooktops, specially designed for use and occupancy by the elderly, including a common dining facility and other common amenities and whose occupancy is restricted to persons 62 years of age or older or couples, one of whose member is 62 years of age or older.



### SENIOR DAY-CARE FACILITY

A facility with limited operating hours where specialized caregiving and supervision are provided for three or more adults who may have difficulties with one or more essential activities of daily living, such as feeding or mobility, away from their own homes for less than 24 hours per day.

### SENIOR INDEPENDENT-LIVING FACILITY

A building, portion of a building or group of buildings containing dwelling units with full kitchens specially designed for use and occupancy by the elderly which may have common amenities but no common dining and whose occupancy is restricted to persons 62 years of age or older or couples, one of whose member is 62 years of age or older, except as described in § 70-95.1C.

[Amended 10-21-2014 by L.L. No. 17-2014]

### SENIOR RESIDENCE DISTRICT (R-S)

A building or group of buildings that contain any combination of two or more residential senior citizen facilities, nursing homes or senior day-care facilities on the same site restricted to persons 62 years of age or older or couples, one of whose member is 62 years of age or older, not necessarily regulated under Article 46 of the New York State Public Health Law, except as described in § 70-95.1C.

[Amended 10-21-2014 by L.L. No. 17-2014]

### SHOPPING CENTER

Any two or more contiguous retail stores, restaurants, shops for personal services and other places of business, originally planned and developed as a single unit, with adjoining off-street parking.

### SIDE YARD

A yard between the side of the building and the corresponding side line of the lot and extending from the front lot line to the rear lot line in the case of a single building on the front portion of the lot. In the case of a rear building on the back portion of a lot, the side yard shall be the yard between the side of said rear building and the corresponding side line of the lot and extending from the front face of said rear building to the rear line of the lot.

### SIGN

Includes every kind of billboard, signboard and other shape or device or display arranged, intended, designed or used as an advertisement, announcement or direction, including any text, symbol, marks, letters or figures painted on or incorporated in the composition of the exterior surface of a building or structure.

### SINGLE-FAMILY DWELLING

A building designed for and occupied exclusively as a home or residence for not more than one family.

## SKY EXPOSURE PLANE

A theoretical inclined plane through which no portion of a building, other than cornices or eaves projecting not more than 18 inches, gutters projecting not more than eight inches and chimneys, may penetrate. It begins at a lot line or other predetermined plane and rises over the zoning lot at a ratio of vertical distance to horizontal distance as set forth in the district regulations.

## STORY

That part of any building between the surface of one floor, except a cellar or basement floor, and the surface of the next highest floor or, if there is no higher floor, then that part of the building between the surface of the highest floor and the ceiling above, except an attic ceiling.

## STREET

Any public thoroughfare or space more than 20 feet in width which may or may not have been dedicated or deeded to the public for public use.

## STREET FRONT

Any property line which abuts a street.

[Added 7-10-2012 by L.L. No. 11-2012]

## STREET FRONTAGE

The distance between the boundary lines of a lot when measured along any property line abutting a public street.

## STREET LINE

The line dividing a lot from a street.

## STRUCTURE

A combination of materials, other than a building, to form a construction that is safe and stable, including, among others, stadiums, gospel and circus tents, reviewing stands, platforms, stagings, observation towers, radio towers, water tanks and towers, trestles, piers, wharves, sheds, commercial coal bins, display signs, fences, retaining walls, outdoor fireplaces, pools and pergolas. The term "structure" shall be construed as if followed by the words "or part thereof."

## TELEPHONE EXCHANGE

A building erected or used exclusively as a central station where telephone lines meet and where connections are made between them and where no trucks or materials are stored.

## TEMPORARY CARE FACILITY

A facility providing housing on a temporary basis to a limited population upon individual referral by a state or federal agency. Such facilities are staffed full time and may have

full- or part-time medical staff on premises and often provide on-site counseling services. Such facilities are not acute care or nursing facilities.

[Added 1-24-2012 by L.L. No. 2-2012]

#### TERRACE

An open porch without a permanent roof.

#### TOWN OF NORTH HEMPSTEAD

Includes all areas of the Town unincorporated as a village on January 1, 1938, and all areas within the Town and within a village incorporated prior to January 1, 1938, which did not have a valid zoning ordinance on January 1, 1938.

#### TOWN OF NORTH HEMPSTEAD SOLID WASTE MANAGEMENT AUTHORITY or AUTHORITY

The public benefit corporation duly organized and validly existing under Article VIII of the New York Public Authorities Law.

[Added 3-19-2019 by L.L. No. 6-2019]

#### TRAFFIC SEPARATOR

A structure of sufficient height and width to divide traffic flowing in opposite directions.

#### TRAILER or CAMP CAR

Any vehicle designed or equipped to be used or used for sleeping, living or eating, and designed to move or be moved from place to place on wheels, and to be propelled by its own power or drawn or propelled by another vehicle.

#### TRANSFER STATION

A solid waste management facility, other than a recyclables handling and recovery facility exclusively handling nonputrescible recyclables, that can have a combination of structures, machinery or devices, where solid waste is taken from collection vehicles and placed in other transportation units for movement to another solid waste management facility. For the purposes of this Chapter 70, the definitions of "solid waste" and "solid waste management facility" shall be those which appear at Chapter 46 of this Code.

#### TWO-AND-ONE-HALF-STORY BUILDING

One where the provisions of the definition for "two-story building" are complied with and where the main eaves are below the midheight of the third story.

#### TWO-FAMILY ATTACHED RESIDENCE BUILDING

Residence units, as defined by this chapter, each arranged for two families, separated by an eight-inch masonry fire wall as a party wall.

#### TWO-FAMILY DETACHED DWELLING

A dwelling designed for and occupied exclusively as a home or residence for not more than two families.

### TWO-STORY BUILDING

Any building where the area of the second floor is equal to at least 75% of the area of the first floor.

### USED

Includes designed, intended or arranged to be used.

### USES

The listed uses permitted in various districts. The listing of any uses as being permitted uses in any district shall be deemed to mean that such uses and no other shall be permitted in such district unless specifically permitted in this chapter. The listing of any use as being permitted in or as being excluded from a particular district shall be deemed to be an exclusion of such use from any more restricted district unless specifically permitted by this chapter. Each of the hereinafter-named districts shall be deemed to be more restricted than the districts which succeed it and less restricted than the districts which precede it: Residence AAA, Residence AA, Residence A, Residence B, Residence C, Residence D, Multiple Residence, Public Housing Residence, Golden Age Residence, Parking, Transportation, Business AA, Business A, Business B, Planned Industrial Park, Industrial A, Modified Planned Industrial Park, Service Commercial and Industrial B Districts.

### VALET PARKING

A service providing for attendants to receive, park and deliver the automobiles of occupants, tenants, customers and visitors.

### VEHICLE ENTRANCE DOOR

**A structural opening in an exterior wall that has the lower sill flush or nearly flush to the driving surface and which has an unobstructed width of greater than 6 feet and unobstructed height of at least 7 feet. Obstructions that are non-structural in nature such as partial/low walls, false walls, or decorative pilasters/mullions shall not be considered as permanent obstructions for the purpose of this definition.**

### VEHICULAR STANDING SPACE

A space located within a drive-through lane, having dimensions set forth in § 70-203S, utilized for the temporary stopping or queuing of a vehicle accessing or waiting to access a drive-through facility.

### WATER-DEPENDENT USE

An activity or use requiring direct access to water which can be conducted only on, in over or adjacent to Town waterways and which involves the use of waterways as an integral part of such activity.

### WIDTH OF A LOT

The mean width measured at right angles to its depth.

### YARD

An open and unoccupied space on the same lot with a building, open and unobstructed from the ground to the sky, except as otherwise provided in this chapter.

### YARD WASTE

Wastes generated by a home or business owner, or landscaping company, including but not limited to leaves, grass clippings, shrubbery, trees, chipped wood, brush, mulch, and weeds.

[Added 3-19-2019 by L.L. No. 6-2019]

### YARD WASTE ACCEPTANCE AND PROCESSING FACILITY

A facility in which the primary activity is the collection and processing of yard wastes for sorting and transfer to permitted composting centers or other types of permitted organic recycling facilities.

[Added 3-19-2019 by LL No. 6-2019]

[1] Editor's Note: The former definition of "delicatessen," which immediately followed, was repealed 3-20-2018 by L.L. No. 2-2018. See now the definition of "retail food use."

[2] Editor's Note: The former definition of "front street," which immediately followed, was repealed 7-10-2012 by L.L. No. 11-2012. See now the definition of "street front."

[3] Editor's Note: The former definition of "restaurant, fast food," which immediately followed, was repealed 3-20-2018 by L.L. No. 2-2018.

### **Section 33.**

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