

**TOWN OF NORTH HEMPSTEAD  
LOCAL LAW NO. \_\_ OF 2019**

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

**Section 1. Legislative Intent.**

The Town Board finds that Chapter 70 of the Town Code lacks comprehensive and consistent regulations regarding how long site plan approvals, special permits, variances and changes of zone are effective. As a result, the Town Board has found that properties are being developed long after approvals are obtained. This results in properties being developed under conditions materially dissimilar to the conditions that existed at the time approvals were obtained, causing adverse effects on the Town’s neighborhoods. Accordingly, the Town Board finds it in the best interests of the Town and its residents to amend Chapter 70 of the Town Code to create and strengthen time limitations for various permit and plan approvals available under the Town Code.

**Section 2.**

Section 70-226 of the Town Code of the Town of North Hempstead is hereby amended to read as follows:

§ 70-226 [~~Lapse of variance; requests for variance extension.~~] **Reserved**  
[[Amended 4-3-2012 by L.L. No. 5-2012]]

- [A. ~~Any variance granted by the Board of Zoning and Appeals shall lapse and be of no further force and effect after one year from the date of decision no substantial construction has taken place 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.~~]
  
- [B. ~~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.~~  
[Amended 3-12-2013 by L.L. No. 1-2013]]
  
- [C. ~~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.]~~

~~[D. Fees for variance extension requests shall be set according to the amounts indicated in the Town of North Hempstead Fee Schedule.]~~

### Section 3.

Section 70-239 of the Town Code of the Town of North Hempstead is hereby amended to read as follows:

§ 70-239 [~~Abandonment~~  
~~[Amended 2-13-1968; 10-6-1970; 2-13-2008 by L.L. No. 2-2008]~~]

~~Whenever a change of zone has been granted pursuant to § 70-238B, failure to develop the rezoned property in accordance with the petition and site plan made a part thereof within one year 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 or when the Town Board determines that it is necessary, 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.]~~ **Reserved.**

### Section 4.

Section 70-240 of the Town Code of the Town of North Hempstead is hereby amended to read as follows:

§ 70-240 Special permits granted by Town.

The Town Board shall make rules as to the manner of filing applications for special permits.

- A. Upon the filing with the Town Board of any such application, the Town Board shall fix the time and place for a public hearing thereon and shall give notice thereof by publishing such notice not more than 20 and not less than 10 days prior to the date of hearing in one or more newspapers of general circulation published in the Town.
- B. The notices required by this section shall state the location of the building or lot and general nature of the question involved.
- C. Before an application for a conditional or special use may be heard by the Town Board, a complete and accurate list of the names and addresses of the owners of all the lands within a radius of 200 feet of the property affected by such application as appears on the latest completed assessment roll of the County of Nassau shall be submitted simultaneously with the application. The applicant shall send, by registered or certified

mail, to each owner shown on said list, not less than 10 nor more than 20 days before the date set for a hearing upon this application, a notice addressed to such owners generally, signed by the applicant, identifying the property affected thereby and setting forth the use requested and the date, hour and place fixed by the Town Board for the hearing thereon. Before such case may be heard by the Town Board, the applicant must file with the Town Attorney, not later than five days prior to the hearing date, an affidavit of the mailing of such notices as herein provided, said affidavit to be made on forms to be provided by the Board.

- [~~D. Whenever a special exception has been granted pursuant to this section or a permit pursuant to § 70-203O, failure to develop the property in accordance with the application and site plan made a part thereof within nine months 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.~~]

## Section 5.

Article XXII of Chapter 70 of the Town Code of the Town of North Hempstead is hereby amended to add Section 70-219.1 to read as follows:

### § 70-219.1 Time Limitations

- A. Change of Zone. Whenever a change of zone has been granted pursuant to § 70-238B, failure to obtain, as applicable, a variance, 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 (3) 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 (1) 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 (1) year, and any extension of a rezoning granted for greater than one (1) year shall be void and of no effect.**
- B. Variances by the Board of Zoning Appeals.**
- (1) Any variance granted by the Board of Zoning and Appeals shall lapse and be of no further force and effect after three (3) 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.

- (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 or a permit pursuant to § 70-203O, 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 (3) 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.

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 (3) 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 (1) 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 (3) one (1) 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.

**Section 6. Severability.**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this article or in its application to the person or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

**Section 7. Effective Date.**

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