

Chapter BZ. Building Zone Ordinance

Article XLIII. Transit Oriented Development Districts for North Lawrence and Inwood.

**§ 432. Transit Oriented Development (TOD) District for North Lawrence and Inwood.**

A. Legislative intent.

It is in the public interest for the Town to utilize its zoning authority to establish a Transit Oriented Development (TOD) District, in order to meet the demand for a housing prototype for residents, located in close proximity to mass transportation such as the Long Island Rail Road (LIRR) train stations, and to create and sustain a vibrant, attractive and economically flourishing hamlet area. Having transit oriented development within walking distance of the Lawrence and Inwood LIRR train stations, with appropriate design elements, will achieve multiple goals: encourage walking and bicycling; increase transit ridership; emphasize mixed- use, pedestrian oriented development; reduce potential automobile dependency associated with new land uses by locating multiple destinations within close proximity, and support a larger commercial tax base for North Lawrence and Inwood. The Town recognizes the benefits of development that is consistent with smart growth principles, which encourages a mix of building types and uses, diverse housing and transportation options, walkable neighborhoods, development within existing neighborhoods and community engagement.

The creation of the TOD District integrates concepts of green building and sustainable site development. It demonstrates the Town's commitment to minimize the potential negative impacts construction has on the environment and to promote the benefits that green building and sustainable development have on the public health and welfare. Green building and sustainable site development brings together a vast array of innovative design practices, techniques and skills and emphasizes an improved quality of life for residents, employers and visitors.

The Town finds that an environment which includes a mixture of commercial and residential uses in close proximity to a train station will encourage greater patronage of local businesses in the hamlet areas and contribute to the proper development of the TOD areas. The quality of the built environment and its relationship to the natural landscape are key indicators of quality of life. The objective of having design guidelines for the TOD District is to provide high quality and complementary design of buildings, landscaping, parking and other site design characteristics. The Town will be able to ensure that mixed-use development implemented under this Code will be built in a manner that is aesthetically pleasing and protects or improves upon the character of the area.

Applicants proposing development in the TOD District have the opportunity to receive an expedited approval process by having the projects initially reviewed by a Town-appointed Design Review Committee (DRC) for advisory comments and assistance with preparing and filing compliant submissions with the Building Department. Initiating an application with the DRC allows applicants the opportunity to not have to extend the approval process timeline by having to follow Section 305 procedures.

## B. Definitions.

In addition to the definitions of this Building Zone Ordinance, the following special definitions are applicable to this article. In the event of conflict, the following definitions shall be controlling:

### **AREA MEDIAN INCOME (AMI)**

The household income for the median household in the Nassau-Suffolk County metropolitan area. Each year, the Department of Housing and Urban Development (HUD) calculates the median income for every metropolitan region in the country. HUD focuses on the region, rather than just the city, because families searching for housing are likely to look beyond the city itself to find a place to live.

### **BIO-SWALES / RAIN GARDEN**

A bio-swale is linear, sloped, depressed landscaped elements designed to collect and slow the flow of rainwater after it falls (at which point it becomes stormwater). This allows Stormwater to leach into the ground rather than flowing above-ground, reducing the Stormwater quantity, speed, and pollutant concentration. They consist of a linear drainage course with gently sloped sides and filled with vegetation. A rain garden is a designed depression storage or a planted hole that receives stormwater runoff, rather than storage and providing conveyance as a bioswale does. The primary purpose of a rain garden is to improve water quality and to ensure that rainwater becomes available for plants as groundwater.

### **CARSHARING PROGRAM**

A vehicle rental model where multiple parties rent the same cars for short periods of time, often by the hour. Shared cars are parked, accessed, and returned to designated parking spaces within a multi-family residential development. They are available to all legal residents of the development where the cars are located. The property owner sets up an agreement with a carsharing operator and typically schedules car rental and payment using a mobile application or website. Carsharing is promoted as an alternative to owning a car. Carsharing is most viable if public transit, walking, or bicycling can serve most needs, making a separate car necessary only for infrequent use, e.g. out-of-town trips, moving large items, or special occasions. Carsharing facilities reduce vehicle ownership and minimize peak parking demand because the same vehicle can serve different residents at different times.

### **DWELLING UNIT**

A building or portion thereof designed for occupancy by one family only, containing a single kitchen, in which members of a family all live and cook together as a single housekeeping unit. Such a building shall not contain separate or segregated internal partitions or locked internal doors barring access between portions of the dwelling, including bedrooms.

### **DESIGN REVIEW COMMITTEE (DRC)**

Comprised of three (3) to five (5) Town designated representatives, chaired by the Building Department Commissioner, selected to provide an initial review of the architecture and site design of a proposed development, and make an advisory recommendation to the Building Department stating whether a filed submission should be eligible for exemption from Section 305 procedures. In the event of an application that would not require Section 305 review under any circumstances, then notwithstanding any provisions of this Article to the contrary, the Design Review Committee shall make an advisory recommendation to the Building Department as to whether the proposed development complies with the architectural and design standards of this Article, or whether the

Parking Management Plan is adequate to serve the parking needs of the proposed development. If the Committee finds non-compliance or non-adequacy, then the provisions of this Article shall not be applied to the proposed development.

**FAIR MARKET RENT (FMR)**

Primarily used to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program, and to serve as a rent ceiling in the HOME rental assistance program.

**HEIGHT**

The vertical distance measured from the mean level of the established center-line grade ("crown of road") of the street adjacent to the building plot to the highest point of the roof deck in the case of flat roofs and to the mean level between the eaves and the highest point of the roof in the case of sloped roofs. Each side of the building shall meet this requirement separately. Roof-mounted solar panels are excluded from the definition of height.

**HOUSEHOLD**

The person who seeks to rent a workforce housing unit, together with any other individual who resides (for more than 30 days per year) in the workforce housing unit, including without limitation, parents, children, siblings, spouses and persons united in a legally recognized civil union.

**MULTIPLE-FAMILY DWELLING UNIT**

A building containing two (2) or more dwelling units.

**PARKING MANAGEMENT PLAN**

A plan designed to manage the use of parking on a property. Proposed parking management tools may include the use of valet parking, designation of car sharing or guest spaces, shared parking agreements between proximate uses, short-term parking limits adjacent to high-turnover land uses, transit subsidies for employees or residents, enforcement, the use of mobile applications for parking payment, wayfinding signage to identify parking areas, or other tools to achieve parking efficiency.

**ROOFTOP TERRACE**

A flat roof area used for public social activities, which may also contain gardens and open space.

**SHARED PARKING**

A tool through which adjacent land uses share their parking areas for part or all of the week, and thereby reduce the number of parking spaces that each land use would need to provide on their individual lots. If adjacent land uses have different parking demand patterns (offset peak hours), the parking space can serve the different land uses at different times. The TOD District permits Shared Parking, subject to the applicant providing a parking analysis of the combined peak parking demand.

**WORKFORCE HOUSING UNIT (WHU)**

A residential unit that is mandated to be constructed under the provisions of this article and to be rented or sold to an eligible individual pursuant to the standards set forth in this article.

C. Applicability.

In a TOD District, the following regulations shall apply.

- (1) For purposes of this article, the TOD District shall be divided into ten subdistricts, with five (5) in North Lawrence and five (5) in Inwood, as indicated on Figure 1 of this article and described below:
  - (a) North Lawrence-1, which includes the east side of Lawrence Avenue, between the LIRR and Mill Street, and the parcels of land situated within the area bounded by the LIRR and Mill Street, extending approximately 330 feet east of Lawrence Avenue.
  - (b) North Lawrence-2, which includes the west side of Lawrence Avenue, between Bayview Avenue and Wanser Avenue, and the parcels of land situated within the area bounded by Bayview Avenue and Wanser Avenue, extending approximately 400 feet west of Lawrence Avenue.
  - (c) North Lawrence-3, which includes the triangular shaped piece of land located just east of the North Lawrence-1 subdistrict, bounded by Mill Street to the north and the LIRR to the south.
  - (d) North Lawrence-4, which includes the 1.5-acre parcel located just west of the North Lawrence-2 subdistrict, bounded by Bayview Avenue to the south.
  - (e) North Lawrence-5, which includes the south side of Bayview Avenue, extending approximately 770 feet west of Lawrence Avenue.
  - (f) Inwood-1, which includes land having frontage on the north side of Prospect Street, the east side of Alvin Place, or the south side of Bayview Avenue, excluding the northwest corner of Doughty Boulevard and Prospect Street and the southwest corner of Doughty Boulevard and Bayview Avenue.
  - (g) Inwood-2, which includes land having frontage on the south side of Prospect Street or the east side of Alvin Place, excluding any parcel having frontage on Doughty Boulevard.
  - (h) Inwood-3, which includes land on the north side of Redfern Avenue, between Doughty Boulevard and the Nassau County boundary, excluding the northwest corner of Doughty Boulevard and Redfern Avenue.
  - (i) Inwood-4, which includes land on the south side of Redfern Avenue, between Doughty Boulevard and the Nassau County boundary.
  - (j) Inwood-5, which includes land on the north side of the LIRR, and bounded by Doughty Boulevard to the west and the Nassau Expressway to the east, and extending approximately 350 feet to the north.

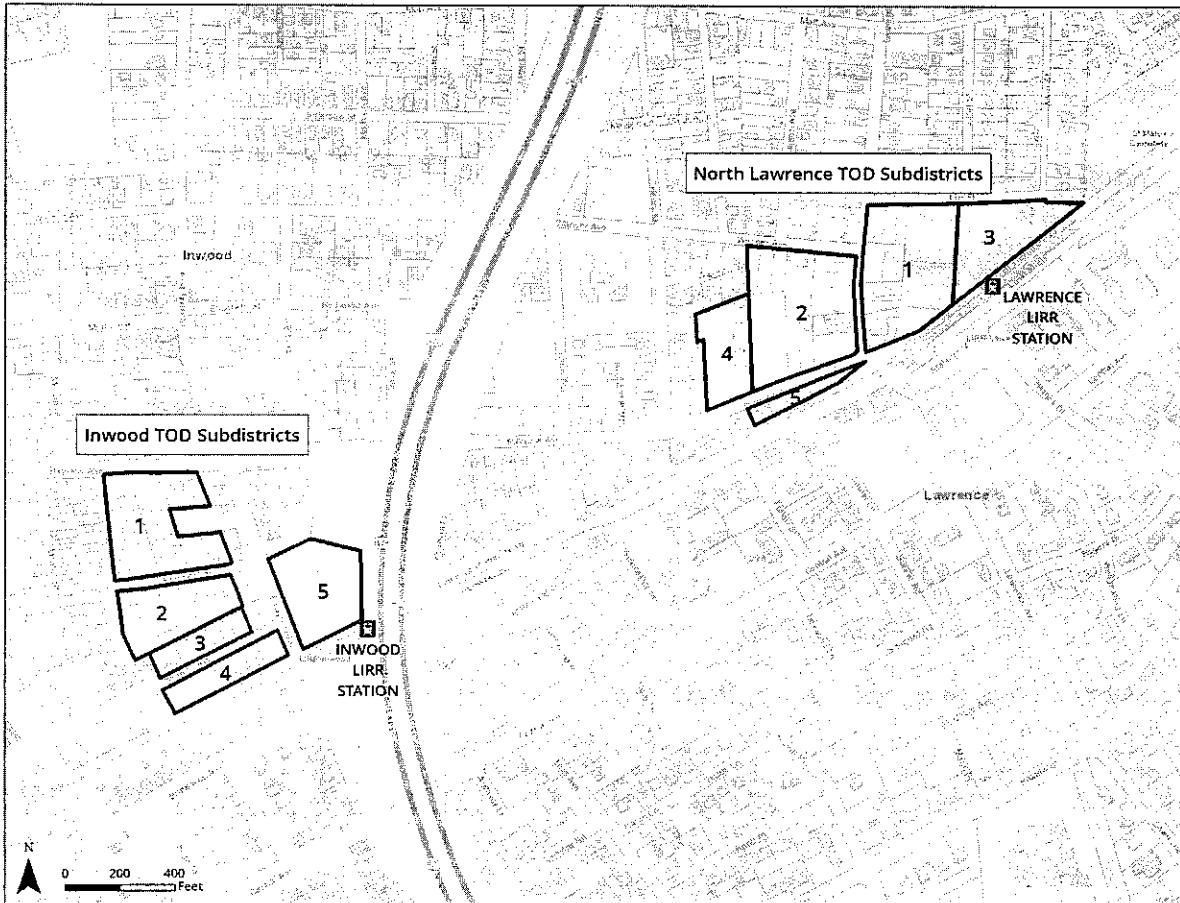


Figure 1: TOD Subdistrict Locations

(Note: Color version of figure can be viewed on the Town's website or in person in the Building Department.)

D. Uses.

(1) (Applies to: North Lawrence-1, North Lawrence-2, Inwood-1, Inwood-3, Inwood-4 and Inwood-5) A building or structure may be erected, altered, or used and a lot or premises may be used for any of the following purposes, and for no other:

(a) Permitted uses:

- [1] Multiple-family dwellings are permitted above the ground level, as well as on the ground level outside of areas shown on Figure 2 as designated ground level commercial space.
- [2] Indoor recreation and outdoor passive space and other amenities servicing the multiple-family development.
- [3] (Applies to: North Lawrence-1) The following uses are permitted on the ground level only, when having frontage on Lawrence Avenue, Mill Street, or the LIRR, in areas shown on Figure 2 as designated ground level commercial space. At least 80% of the aforementioned

ground level floor area shall be dedicated to one or more of the commercial uses as defined below as permitted uses.

*(Applies to: North Lawrence-2)* The following uses are permitted on the ground level only, when having frontage on Lawrence Avenue, Wanser Avenue, or Bayview Avenue, in areas shown on Figure 2 as designated ground level commercial space. At least 80% of the aforementioned ground level floor area shall be dedicated to one or more of the commercial uses as defined below as permitted uses.

*(Applies to: Inwood-1, Inwood-3, Inwood-4 and Inwood-5)* The following uses are permitted on the ground level only, when having frontage on Doughty Boulevard, Bayview Avenue or Redfern Avenue. A maximum of 5,000 square feet shall be dedicated to one or more of the commercial uses in each subdistrict, as defined below as permitted uses. Provision of a commercial area greater than 5,000 square feet (in any of the aforementioned subdistricts) requires a special permit from the Town Board.

- (a) Stores for the sale, at retail, of articles to be used or consumed off the premises.
- (b) Personal service shops such as barbershops and beauty parlors.
- (c) Offices (including shared workspace), banks, financial institutions.
- (d) Museums, art galleries.
- (e) Libraries.
- (f) Health clubs.
- (g) Restaurants (including café, deli and bar/tavern).
- (h) Community centers.

*(Applies to: Inwood-5)* The following use is permitted and required to be a part of any development plan for the Inwood-5 subdistrict:

- (i) Parking lot to be used by train commuters who are Town of Hempstead residents. All development shall include no less than 125 on-site parking spaces to be dedicated for Town of Hempstead residents who are patronizing the LIRR. In addition, a separate on-site area shall be dedicated for use as a drop-off/pick-up area for users of the LIRR who are being dropped off by another person, including by taxi, uber or lyft. The costs of the parking area and associated improvements are the responsibility of the developer.

[4] Uses not listed above that are similar in character, scale, and impact to the uses listed above may be allowed if granted a special permit by the Town Board, based upon consistency with the regulations and intent of this article.

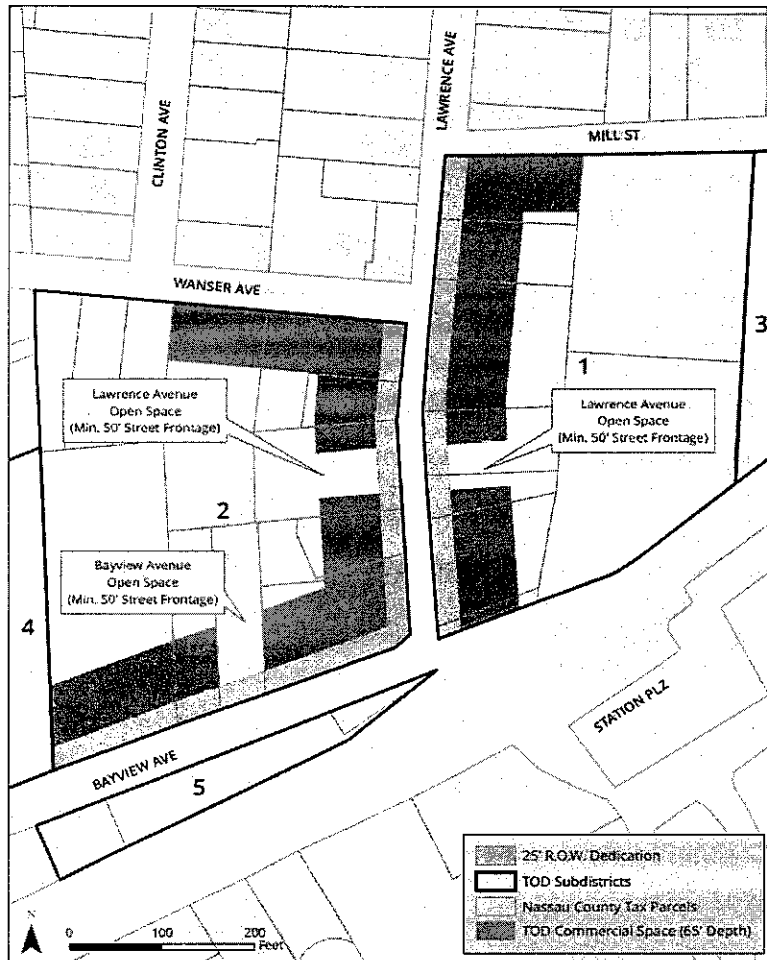


Figure 2: Commercial Space and R.O.W. Dedication in North Lawrence-1 and North Lawrence-2 Subdistricts  
 (Note: Color version of figure can be viewed on the Town's website or in person in the Building Department.)

(b) Special permit uses. The following special uses, when approved by the Town Board, as applicable, are permitted:

- [1] Food Grocery Store, Food Specialty Store or Pharmacy (over 10,000 square feet of gross floor space).

(c) Prohibited uses:

- [1] All uses not expressly permitted are prohibited.
- [2] Drive-through facilities.

(2) (Applies to: North Lawrence-3, North Lawrence-4, and Inwood-2) A building or structure may be erected, altered, or used and a lot or premises may be used for any of the following purposes, and for no other:

(a) Permitted uses:

- [1] Multiple-family dwellings.
- [2] Indoor recreation, outdoor passive space, and other amenities servicing the multiple-family development.

(b) Prohibited uses:

- [1] All uses not expressly permitted are prohibited.

(3) *(Applies to: North Lawrence-5)* A building or structure may be erected, altered, or used and a lot or premises may be used for any of the following purposes, and for no other:

(a) Permitted uses:

- [1] Stores for the sale, at retail, of articles to be used or consumed off the premises.
- [2] Personal service shops such as barbershops and beauty parlors.
- [3] Offices (including shared workspace), banks, financial institutions.
- [4] Museums, art galleries.
- [5] Libraries.
- [6] Health clubs.
- [7] Restaurants (including café, deli and bar/tavern).
- [8] Community centers.
- [9] Parking fields, either public or private, for the parking of passenger vehicles only, but not for display or sale of automobiles.
- [10] Uses not listed above that are similar in character, scale, and impact to the uses listed above may be allowed if granted special permit by the Town Board, based upon consistency with the regulations and intent of this article.

(b) Prohibited uses:

- [1] All uses not expressly permitted are prohibited.

E. Population density.

No multiple-family dwelling shall be erected or altered to accommodate or make provision for more than 60 households per acre.



F. Height.

No building shall be greater than 5 stories or 60 feet in height. "Height" shall be defined as applicable to the TOD District (TOD).

G. Building area.

The building area shall not exceed 60% of the lot area, exclusive of all landscaped areas and landscaped courtyards, whether or not constructed above parking areas.

H. Dwelling unit size.

The minimum dwelling unit size shall be as follows: Studio Apartment – 550 square feet.

I. Right-of-way dedication.

(Applies to: North Lawrence-1 and North Lawrence-2) All development projects with frontage facing Lawrence Avenue and Bayview Avenue shall dedicate a continuous 25-foot-wide section of land adjacent to Lawrence Avenue and Bayview Avenue. Allowed density shall be determined by the gross acreage of the property, which includes the area being dedicated.

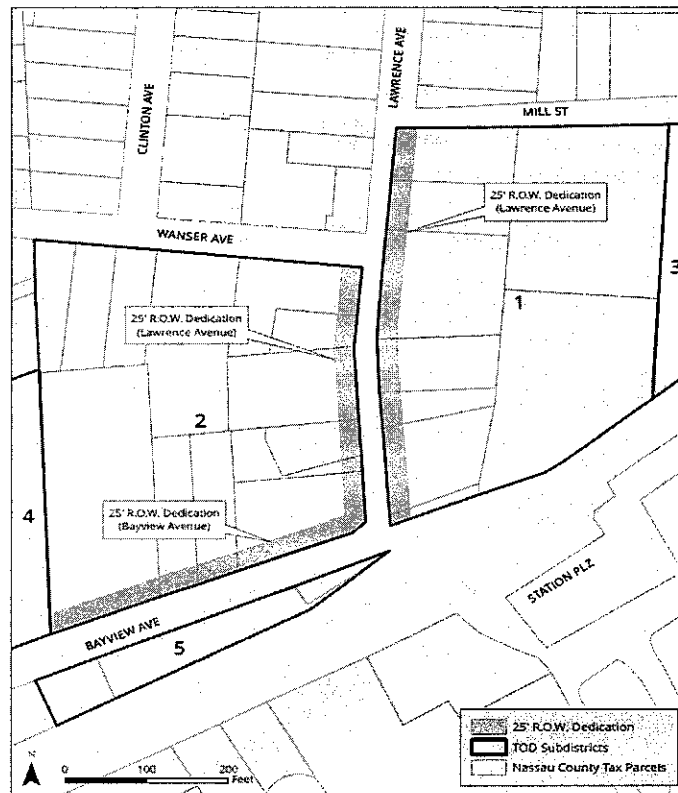


Figure 3: Required 25' R.O.W. Dedication along Lawrence Avenue  
(Note: Color version of figure can be viewed on the Town's website or in person in the Building Department.)

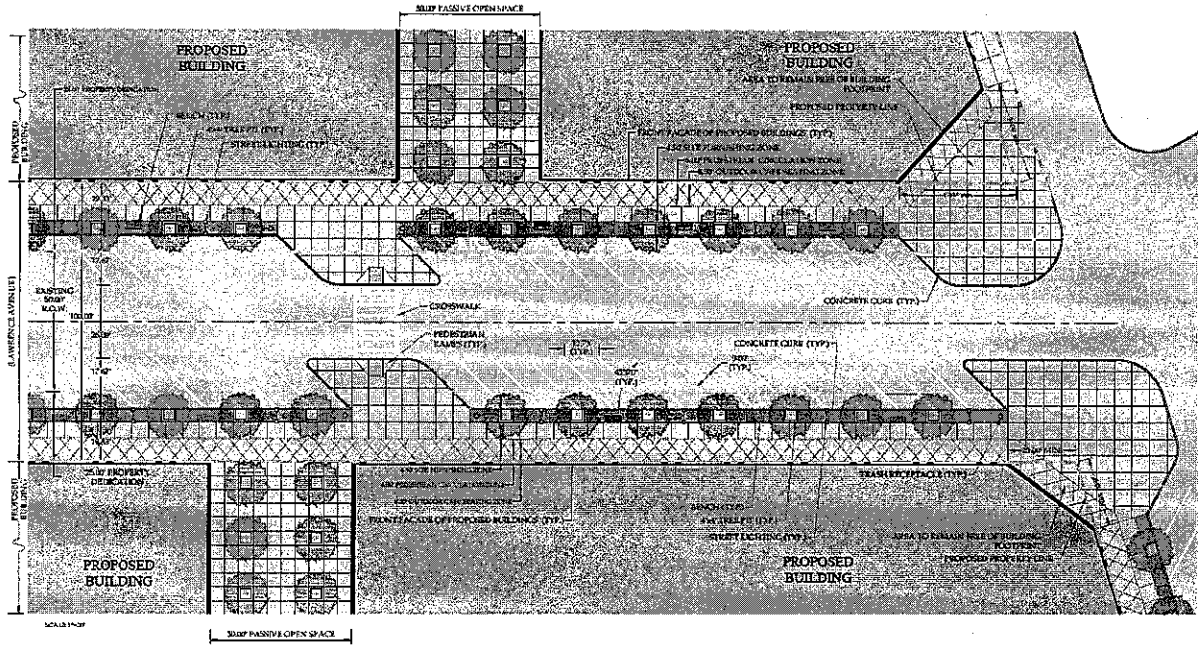


Figure 4: Plan View of Lawrence Avenue R.O.W. Dedication and Potential Streetscape Design  
 (Note: Color version of figure can be viewed on the Town's website or in person in the Building Department.)

J. Front yards.

The front building lot line shall be 0 feet, except for pedestrian plaza areas. For buildings having residential units on the ground level, the front yard setback shall be a minimum of 8 feet and a maximum of 12 feet.

*(Applies to: North Lawrence-5)* There shall be a front yard setback of at least 5 feet.

K. Side yards.

*(Applies to: North Lawrence-1 and North Lawrence-2)* There shall be no required side yard setback.

*(Applies to: North Lawrence-3, North Lawrence-4, Inwood-1, Inwood-2, Inwood-3 and Inwood-4)* There shall be no required side yard setback, except when adjacent to a residentially zoned area, where there shall be a side yard setback of at least 25 feet. When not adjacent to a street, there shall also be a landscaped buffer strip of not less than 10 feet in width.

*(Applies to: North Lawrence-5)* There shall be a side yard setback of at least 5 feet.

L. Rear yards.

*(Applies to: North Lawrence-1 and North Lawrence-2)* There shall be a rear yard, the depth of which shall be at least 15 feet.

*(Applies to: North Lawrence-3, North Lawrence-4, Inwood-1, Inwood-2, Inwood-3 and Inwood-4)* There shall be a rear yard setback of at least 25 feet, which also includes a landscaped buffer strip of not less than 10 feet in width.

*(Applies to: North Lawrence-5)* There shall be a rear yard setback of at least 5 feet.

M. Curb cuts.

No curb cuts shall be permitted on Lawrence Avenue, unless recommended by the Design Review Committee.

N. Open space.

The inclusion of open space is an extension of the streetscape improvements included as part of a Transit Oriented Development project as a means of providing accessible space for the public while walking to and from the train station and while shopping and visiting. The open space serves as a civic space to be used by residents as well as visitors. It acts as a welcoming amenity situated within a walkable mixed-use hamlet center.

- (1) A passive open space shall have a street frontage of 50 feet and a minimum depth of 75 feet. For parcels having frontage along Lawrence Avenue, the open space shall be provided with public access to that street.
- (2) Rooftop terraces shall be permitted, to be used as another means of providing open space for the exclusive use of residents living in the building. For every one (1) square foot of dedicated terrace space for active use by the residents, there shall be an equal or greater amount of "green" surface planted with 100% live vegetation, which can be used as a method for capturing and using rainwater to reduce runoff and irrigation. A credit for stormwater volume shall be applied as determined by the Town Engineering Department.

O. Minimum lot area and street frontage.

*(Applies to: North Lawrence-1)* No multiple-family dwelling or other building shall be constructed on a lot unless it contains an area of not less than 3.0 acres and has a minimum street frontage of 150 feet. Applications shall be submitted for full site plan development of a parcel or assemblage of parcels within the subdistrict. Development of less than 3.0 acres may be allowed by petition to the Town Board, as long as it does not interfere with the overall legislative intent of this article.

*(Applies to: North Lawrence-2)* No multiple-family dwelling or other building shall be constructed on a lot unless it contains an area of not less than 4.0 acres and has a minimum street frontage of 150 feet. Applications shall be submitted for full development of a parcel or assemblage of parcels within the subdistrict. Development of less than 4.0 acres may be allowed by appeal to the Town Board, as long as it does not interfere with the overall legislative intent of this article.

*(Applies to: Inwood-1)* No multiple-family dwelling or other building shall be constructed on a lot unless it contains an area of not less than 2.5 acres and has a minimum street frontage of 150 feet. Applications shall be submitted for full development of a parcel or assemblage of parcels within the

subdistrict. Development of less than 2.5 acres may be allowed by appeal to the Town Board, as long as it does not interfere with the overall legislative intent of this article.

*(Applies to: North Lawrence-3 and Inwood-5)* No multiple-family dwelling or other building shall be constructed on a lot unless it contains an area of not less than 2.0 acres and has a minimum street frontage of 150 feet. Applications shall be submitted for full development of a parcel or assemblage of parcels within the subdistrict. Development of less than 2.0 acres may be allowed by appeal to the Town Board, as long as it does not interfere with the overall legislative intent of this article.

*(Applies to: North Lawrence-4 and Inwood-2)* No multiple-family dwelling or other building shall be constructed on a lot unless it contains an area of not less than 1.5 acres and has a minimum street frontage of 150 feet. Applications shall be submitted for full development of a parcel or assemblage of parcels within the subdistrict. Development of less than 1.5 acres may be allowed by appeal to the Town Board, as long as it does not interfere with the overall legislative intent of this article.

*(Applies to: North Lawrence-5 and Inwood-4)* No multiple-family dwelling or other building shall be constructed on a lot unless it contains an area of not less than 1.0 acre and has a minimum street frontage of 150 feet. Applications shall be submitted for full development of a parcel or assemblage of parcels within the subdistrict. Development of less than 1.0 acre may be allowed by appeal to the Town Board, as long as it does not interfere with the overall legislative intent of this article.

*(Applies to: Inwood-3)* No multiple-family dwelling or other building shall be constructed on a lot unless it contains an area of not less than 0.75 acres and has a minimum street frontage of 150 feet. Applications shall be submitted for full development of a parcel or assemblage of parcels within the subdistrict. Development of less than 0.75 acres may be allowed by appeal to the Town Board, as long as it does not interfere with the overall legislative intent of this article.

#### P. Parking.

Transit oriented development (TOD) with mixed uses has the unique advantage of creating an environment where there can be less reliance on driving for daily activities. More emphasis can be placed upon walking when housing and complementary uses are located in close proximity to transit. A reduced reliance on private vehicles requires less off-street parking. Further, having adjacent uses that have peak parking at different times of the day or week allows for shared parking between these adjacent uses, whereby a single parking space serves different uses at different times. This reduces the number of parking spaces relative to providing each land use's parking on individual lots. Transit oriented development can reduce the rate of automobile ownership compared to standalone uses further from transit. A key provision to incentivizing reduced car ownership is a carsharing program. The Town hopes that residents of the new transit oriented uses will benefit greatly from transportation incentive programs that TOD facilitates. These programs contribute to the overall reduction of vehicle travel and help to promote a healthier lifestyle.

- (1) In the case of a multiple-family dwelling, there shall be provided on the premises parking (which can include below-grade garage facilities) adequate to accommodate the following requirements: Studio Apartment – 0.5 spaces per unit; 1-bedroom Apartment – 1 space per unit; and 2-bedroom Apartment – 1.5 spaces per unit. Parking can be provided either at grade or subsurface. If the total number of studio apartment units is greater than 10 percent of the total unit count for the project, the parking requirement for a studio apartment shall be 1 space per unit.

- (a) Tandem parking may be permissible with a covenant demonstrating that a 24-hour parking attendant will be provided on site.
- (2) In the case of non-residential uses, there shall be provided on the premises parking or below-grade garage facilities adequate to accommodate 1 space for each 500 square feet of gross floor area. Restaurants shall accommodate 1 space for each 4 seats, plus 1 space for each 4 employees. Parking may incorporate shared parking spaces located within 500 feet of each individual building. The DRC will consider reduced parking ratios subject to the submittal of a parking analysis prepared by a transportation engineer. Individual uses may consider the use of valet parking as part of their parking plan.
- (a) Valet parking must be provided at no additional fee to visitors of non-residential uses. If valet parking is to be provided, a valet parking plan shall be submitted to the Town.
- (3) One level of above-grade structured parking shall be permitted if subsurface parking and surface parking is to be constructed with an optimal utilization demonstrated as part of the site plan and parking management plan presented to the Design Review Committee. Structured parking shall not be included as part of the building coverage computation. Additionally, open air courtyard podium above surface parking shall not be included as part of the building coverage computation. The one level of above grade parking shall comply with the following provisions:
- (Applies to: Inwood-5)* Above-grade structured parking shall be permitted up to three (3) levels with an optimal utilization demonstrated as part of the site plan and parking management plan presented to the Design Review Committee. The following provisions do not apply to above-ground structures constructed in the Inwood-5 subdistrict.
- (a) For development parcels over 4 acres, an above-grade parking structure shall have lot coverage up to 15%; for parcels between 3-4 acres, an above-grade parking structure shall have lot coverage up to 20%; and for parcels less than 3 acres, an above-grade parking structure shall have lot coverage up to 25% lot coverage.
  - (b) The location of an above-grade parking structure shall be located on the interior side of a building and not be visible from the street which the building fronts including all streets if a corner parcel.
  - (c) An above-grade parking structure shall be setback a minimum of 20 feet from any adjoining residential zoned property and a minimum of 10 feet from all other side and rear property lines. The minimum setback area shall be landscaped with a double row of evergreen trees planted at a minimum height of eight (8) feet.
  - (d) The location of an above-grade parking structure shall not visibly mask sight lines or block accessibility to ground level retail uses located on the interior side of buildings.
  - (e) Any above-grade parking structure exceeding the specified coverage and/or not complying with the specified provisions would be subject to a special exception being granted by the Town Board.

- (4) Parking spaces shall be 9'x18' with 24' drive aisles for two-way traffic flow. Spaces designated for residents only can be 8½'x18'. Parking spaces may be 16½' long if the front of the stall has 18" overhang. Sidewalk shall not be included in overhang space unless the sidewalk is at least 5½' wide (i.e. 4' wide in addition to the 18" overhang).
- (5) Up to 85 percent of tandem or valet parking spaces, if utilized subject to DRC approval, may be 8'x17' with a 20' two-way drive aisle, subject to Fire Code requirements. The Town reserves the right to modify this stall size based on changes in the vehicle mix as evidenced by sales data or other nationally accepted reports (e.g. by the National Parking Association, Edmunds, or Kelly Blue book).
- (6) One-way parking dimensions shall be according to the Town of Hempstead Building Zone Ordinance or the Urban Land Institute *Dimensions of Parking* publication.
- (7) The DRC reserves the right to permit smaller parking stalls and/or drive aisles, if appropriate for circulation and subject to the stipulations of the Fire Code.
- (8) A reduction in the minimum number of required parking spaces may be approved for combinations of uses which have staggered demand schedules over time, such as daytime office with residential. The process for calculating this reduction can be found in Section Q.
- (9) Each development shall be required to submit a parking management plan to the Design Review Committee. The requirements of the parking management plan can be found in Section Q.
- (10) Each development shall demonstrate inclusion of a Town-recognized carsharing program, which includes an agreement between the property owner and a carsharing operator that is filed and approved by the Town. The carsharing program shall be recorded with the deed that runs with the property. Each development shall provide one (1) parking space to be leased by a carsharing program for every 50 dwelling units. These designated parking spaces are included in the required off-street parking spaces to be provided, in a similar fashion to ADA parking. If more than three (3) carsharing parking spaces are provided, for the fourth, fifth, and sixth carsharing spaces, the number of required parking spaces site-wide shall be reduced by three parking spaces as shown in the following table, up to a maximum site-wide reduction of nine (9) required spaces.

Car-Sharing Spaces	Reduction in total parking requirement
1, 2, or 3 spaces	None
4 spaces	3 fewer spaces site-wide
5 spaces	6 fewer spaces site-wide
6 spaces	9 fewer spaces site-wide
7 or more spaces	9 fewer spaces site-wide

- (11) To promote train ridership and the reduction of vehicle usage, property owners shall provide a monthly reimbursement of 25% of the cost of a monthly LIRR ticket to each resident who demonstrates evidence of purchasing a monthly ticket. Reimbursements shall be limited to a maximum of one (1) per unit, and reimbursement will be in the form of a reduction of monthly rent total for the following month. The reimbursement program shall be in place for at least 20 years after the opening of the building.

(12) Property owners shall install a digital "travel concierge" informational kiosk in the building lobby that displays real-time transit (train and bus) arrival information for residents to utilize.

(13) Bicycle parking facilities shall be provided on site in a designated area that is visible from the adjacent parking lot if outdoors. In no case shall there be less than 1 bicycle rack that can accommodate at least three (3) bicycles. Bicycle parking racks should be securely anchored to the ground (in-ground mounting) so they cannot be easily removed and should be of sufficient strength to resist theft. If located in a parking area, the racks should be separated by a physical barrier (e.g. flexible bollards) to discourage errant encroachment by drivers, and there should be a 5' minimum sidewalk around the rack area. Bicycle parking should be designed subject to the following guidelines:

- (a) Inverted "U" racks are preferred.
- (b) At least 18" wide and 33" tall when installed.
- (c) Securely anchored to a solid, immovable surface.
- (d) Have two (2) points of contact for a typical adult or child's bicycle frame.
- (e) Allow the user to lock the frame and one (1) wheel using a standard U-lock.
- (f) Constructed of steel pipe or tubing.
- (g) Galvanized with a powder coat finish to protect against corrosion, if located outdoors.
- (h) Racks shall be mounted in the ground or in a concrete pad. Surface mounting is not permitted. If mounted in brick or stone pavers, rack legs must be 9" deep in a 12"x12" concrete block under 6" of pavers. If mounted in concrete, the rack tubes shall be a minimum of 9" deep in concrete.
- (i) If mounted indoors, wall-mounted racks are permissible if the wall material satisfies the above stipulations.
- (j) Clearances around individual racks are tabulated below:

Dimension	Minimum Clearance
Aisle Width - single level	5 ft
Aisle Width - Double-decker racks	7 ft
On-center distance - Parallel or angled racks	3 ft
Distance - end to end U racks	8 ft
Distance from any obstruction	2 ft
Vertical clearance for Double-decker rack	See manufacturer's specs

Figure 5: Bicycle Rack Dimensional Standards

(14) There shall be 1 electric car charging station provided for each 50 dwelling units or fraction thereof.

Q. Parking management plan submission.

- (1) Submit the number of required parking spaces for each land use based on the parking requirements outlined in Section P. Alternative parking requirements based on the Institute of Transportation Engineers (ITE) Parking Generation Manual, latest edition, or a targeted similar-site engineering study may be submitted for DRC use.
- (2) A reduction in the minimum number of required parking spaces may be approved for combinations of uses which have staggered demand schedules over time, such as daytime office with residential. To take advantage of this parking reduction, an Applicant must:
  - (a) Provide a 24-hour utilization chart for each proposed use based on industry standard documents including but not limited to those published by the Institute of Transportation Engineers (ITE), the Urban Land Institute (ULI), and the American Planning Association (APA) to justify parking reductions due to shared/staggered parking between proposed uses. An example of a parking utilization chart can be found in Figure 5.

Use Type	Weekdays			Weekends		
	8 a.m. - 12 p.m.	12 p.m. - 6 p.m.	6 p.m. - 8 a.m.	8 a.m. - 6 p.m.	6 p.m. - 12 a.m.	12 a.m. - 8 a.m.
Residential	50%	100%	100%	80%	100%	100%
Office	100%	20%	5%	5%	5%	5%
Retail/ Commercial	90%	80%	5%	100%	70%	5%
Restaurant	70%	100%	10%	70%	100%	20%
Civic Institution	100%	20%	5%	10%	10%	5%
Religious Institution	10%	5%	5%	100%	50%	5%
Bar/ Entertainment	40%	100%	10%	80%	100%	50%
Movie Theater	40%	80%	10%	80%	100%	10%
Hotel	70%	100%	100%	70%	100%	100%

Figure 6: Example Parking Utilization by Use

- (b) Provide the staggered demands between multiple uses utilizing the parking requirements and parking utilization chart. A sample calculation can be found in Figure 6.

*Example: A property owner wishes to share a parking lot which takes advantage of staggered hours parking demands. One use is an office building which normally requires 30 parking spaces. The other use is residential apartments which also normally would require 30 spaces. Normally, these two uses would require a total of 60 spaces. However, since the parking demand for these two uses isn't always experiencing peak demand at the same time of day, a reduction can be applied.*

*During weekday business hours (8:00 a.m. to 6:00 p.m.) the office use needs 100% of its parking, so it would need all 30 of its parking spaces. During that same period, however, the residential*



use only needs 50% of its total parking, so it would only need 15 of its 30 spaces. The remaining time slots for each use are also filled out as follows:

Use Type	Weekdays			Weekends		
	8 a.m. - 6 p.m.	6 p.m. - 12 a.m.	12 a.m. - 8 a.m.	8 a.m. - 6 p.m.	6 p.m. - 12 a.m.	12 a.m. - 8 a.m.
Residential	15 (50%)	30 (100%)	30 (100%)	24 (80%)	30 (100%)	30 (100%)
Office	30 (100%)	6 (20%)	2 (5%)	2 (5%)	2 (5%)	2 (5%)
Total Spaces Needed:	45	36	32	26	32	32

Figure 7: Example of Reduced Parking Requirement Calculation

Adjusting for the fluctuations, this shared parking area would experience its highest combined peak demand during the 8:00 a.m. to 6:00 p.m. weekday time slot, when 45 parking spaces would be needed. The remaining time slots are each less than that, so this parking lot would only be required to provide 45 spaces instead of the original 60.

- (c) Demonstrate that a minimum of 10% surplus parking spaces above the demand calculated from the process outlined in Section (b) will be provided. Using the example above, the number of required parking spaces would be 50 parking spaces ( $45 \times 1.1 = 49.5$ ). All parking should be provided in accordance with Section P of this code.
- (3) Demonstrate inclusion of a Town-recognized carsharing program as outlined in Section P of this code.
- (4) Provide a diagrammatic exhibit illustrating the location of on-site short-term parking areas for non-residential uses. These spaces should be located closer to building entrances than parking specifically designated for residential use.
- (5) Provide explanation and documentation supporting any additional service the Applicant will provide that may reduce the on-site parking demand.

R. Design guidelines.

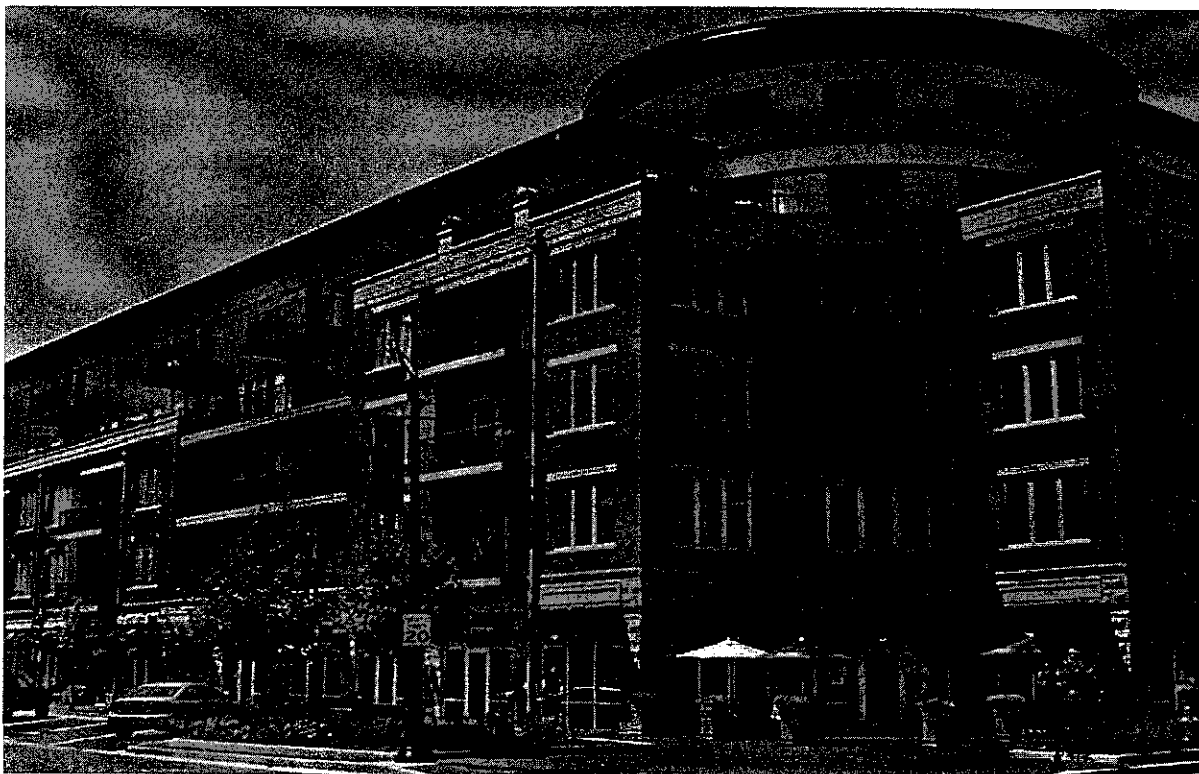
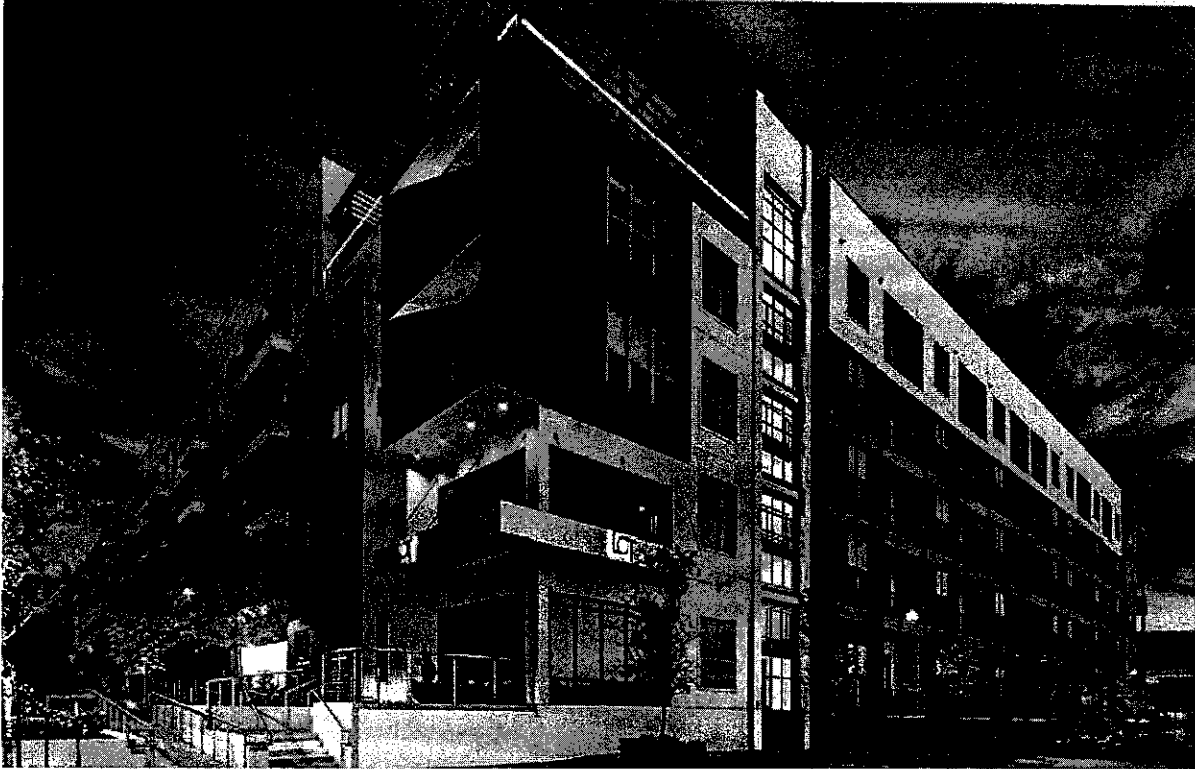
These design guidelines should be used as a tool by the Town's designated Design Review Committee (DRC) as it reviews development proposals for the TOD District and assures a complementary design style for the district that achieves the goals of green building and sustainability principles in creating a vibrant mixed-use environment.

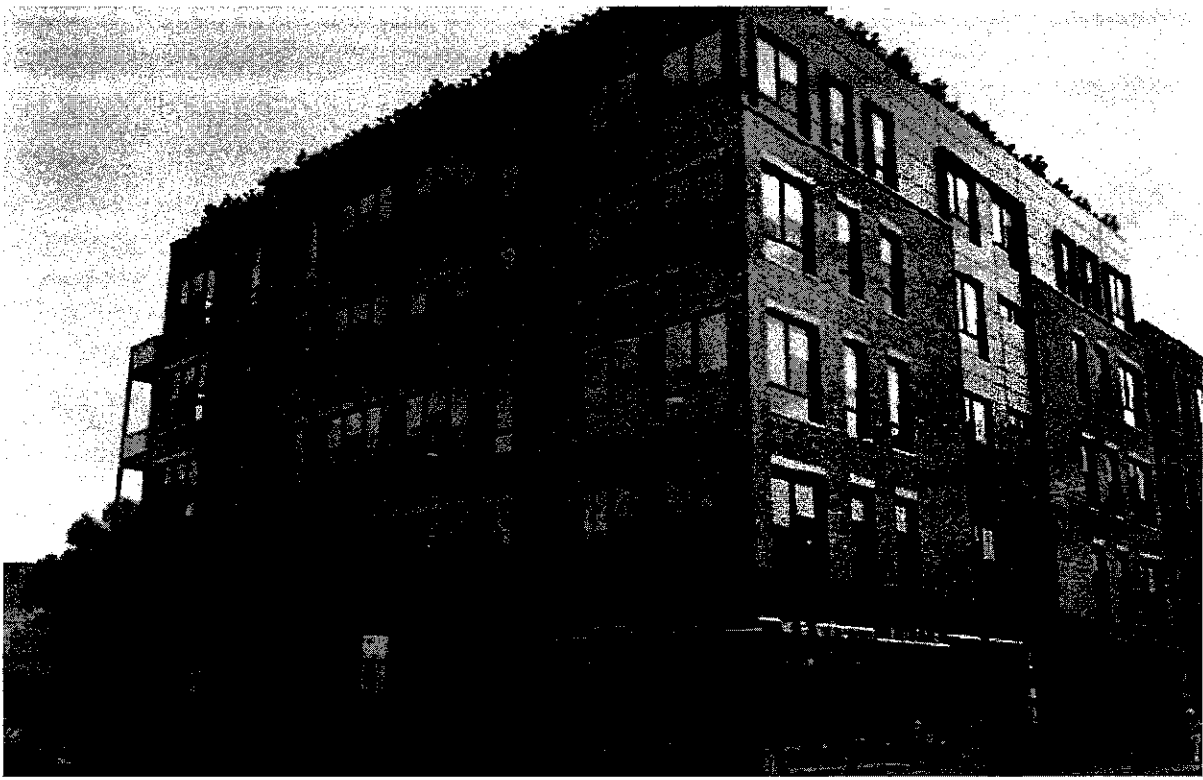
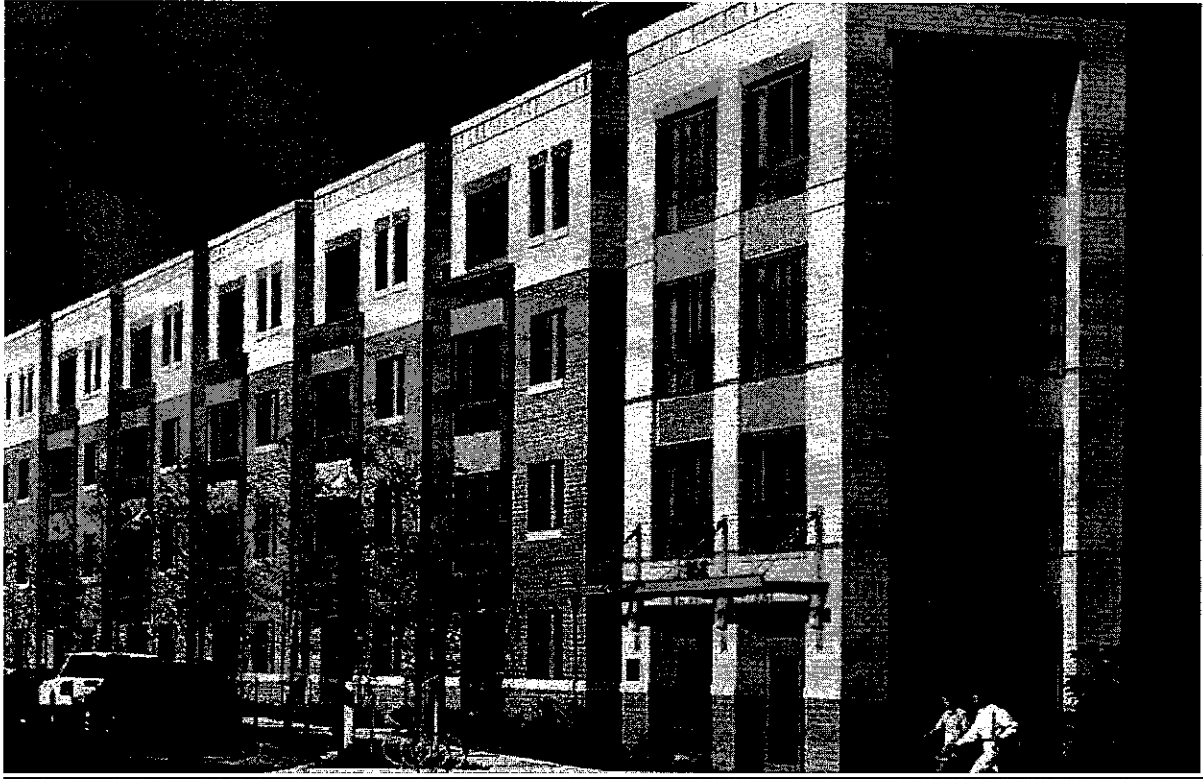
- (1) Building shape, proportions, massing and design should be appropriate to the character achieved through the creation of a transit oriented development area. Architectural articulation should be generally consistent with the recommended examples shown in the following figures.
- (2) The exteriors of buildings shall utilize high quality cladding materials such as brick, stucco, stone, cementitious siding, or a combination of such materials or their equivalent. The use of imitation, synthetic, metallic and reflective materials should be limited. The use of aluminum or vinyl siding, imitation brick, or plastic shall be prohibited, unless recommended by the DRC.

- (3) Buildings located on corner sites shall have enhanced building articulation and façade treatment on all street facing sides.
- (4) Building design and landscaping shall serve to reinforce and announce the main pedestrian building entrances.
- (5) Parking shall be placed in the rear of buildings and should be adequately planted and landscaped in order to create an attractive point of arrival.
- (6) Walkways should be provided for safe and convenient pedestrian access from sidewalks to storefront entries.
- (7) Ground level space improved with commercial use should include display windows, lighting, architectural treatments, and/or landscaping that is active, visible, and enhances the pedestrian environment.
- (8) Trash/dumpster areas shall be fully enclosed with self-closing and self-latching doors, and each enclosure should accommodate both trash and recycling bins. Trash enclosures should be an integral part of the building design whenever possible.
- (9) Whenever a development abuts upon a single-family residential parcel or building, there shall be suitable screening, landscaping or buffer plantings, as recommended by the Design Review Committee.
- (10) Any building constructed over three-stories shall be Type 2 non-combustible construction, in accordance with International Building Code 2015 with amendments.

### Recommended Design Styles

(Note: Color version of photos can be viewed on the Town's website or in person in the Building Department.)





S. Green Building and Sustainable Site Development.

- (1) The creation of the Transit Oriented District has provided the setting for integrating the concepts of green building and sustainable site development. It shows the Town's commitment to minimize the short-term and long-term negative impacts construction has on the environment and the commitment to promote the benefits that green building and sustainable development have on the public health and welfare. Green building brings together a vast array of practices, and emphasizes taking advantage of renewable resources. With the proper synergistic design, individual green building technologies may work together to produce a greater cumulative effect. While this does not require USGBC LEED certification, this code encourages developers to utilize green building techniques and sustainability, and requires a LEED (current version) project checklist demonstrating compliance with the certification level to be submitted as part of the DRC review.
  - (a) Energy-efficient and water saving appliances and fixtures shall be used.
  - (b) LED lighting and occupancy sensors should be used to reduce electrical demand.
  - (c) All exterior lighting shall use photosensitive cells that automatically turn off lights at sunrise.
  - (d) Healthy indoor air quality shall be maintained with appropriate building materials and HVAC systems.
  - (e) Landscaping shall consist of native plants that use water efficiently.
  - (f) All sites providing irrigation shall provide a method to capture and re-use rainwater for irrigation purposes.
  - (g) Sites shall provide bio-swales and/or rain gardens to provide pre-treatment, surface detainment and opportunity for surface infiltration.
  - (h) Sun, wind and landscape conditions shall be considered when siting the building to take advantage of natural/passive heating, shade, cooling and daylighting.
  - (i) Developments shall employ passive heating and cooling design strategies to the maximum extent feasible. Strategies to be considered include high insulation values, energy efficient windows including high performance glass, light-colored or reflective roofing and exterior walls, and window shading and landscaping that provides shading during the appropriate seasons.
  - (j) New multi-family residential structures shall include electrical conduit specifically designed to allow for later installation of a photovoltaic (PV) system which utilizes solar energy as a means to provide electricity.
  - (k) Roof top terraces in conjunction with live green roof treatments should be encouraged as another way to provide open space for residents.

(2) Stormwater management.

All development shall comply with the stormwater and erosion and sediment control provisions in Article XXXVIII of the Town Code, as well as the New York State General Stormwater Permit and Green Infrastructure and other applicable requirements set forth in the most current version of the New York State Stormwater Design Manual. When ground level public open space is not located above a below-grade garage, a minimum of 50% of the surface cover area shall be constructed of permeable/porous pavers, and maintained by the building owner according to current accepted practice, to limit the intrusion of sand or other debris that could inhibit stormwater leaching. Impervious cover should be reduced to the maximum extent practicable.

(3) Landscaping.

All usable open space, such as pedestrian walkways, along streetscapes, separations between buildings, common recreation areas, pedestrian-oriented open spaces and outdoor parking areas shall be landscaped and provided with control timers and underground irrigation systems, or an alternative equivalent system. Parking areas shall be screened from all residential uses and pedestrian-oriented areas through the use of trees, shrubs, walls and/or trellis structures with plants. Irrigation systems shall be designed to provide a method for capturing and reusing rainwater for irrigation purposes.

T. Signs.

Signs, which are categorized and authorized under the provisions of Article XXIV, are permitted, subject to general consistency with the Transit Oriented Development District Design Guidelines. Signs should be an integral part of the building and should be compatible in scale and proportion with building design and other signs. Signs shall be located to facilitate passing pedestrians as well as drivers.

U. Design review and application submission procedures.

Applicants proposing development in the TOD District have the opportunity to receive an expedited approval process by having the projects initially reviewed by a Town appointed Design Review Committee (DRC) for advisory comments and assistance with preparing and filing compliant submissions with the Building Department. Initiating an application with the DRC allows applicants the opportunity to not have to extend the approval process timeline by having to follow Section 305 procedures.

(1) There shall be a Design Review Committee for purposes of applying the Transit Oriented Development Zoning District Design Guidelines and Site Requirements to perspective application submissions. The DRC has the ability to recommend to the Department of Buildings whether an application has met the criteria to allow it to be eligible for exemption from Section 305 procedures. The DRC shall be governed as follows:

(a) The DRC shall be comprised of Town designated representatives (a minimum of three (3) and up to five (5)), chaired by the Commissioner of Buildings, or their appointee. A recommendation from the DRC to the Building Department shall be necessary prior to the submission of building plans for properties located in the TOD District.

- (b) After an initial meeting has been scheduled with the DRC, the applicant shall submit the following materials in order for the DRC to provide beneficial comments to the applicant and make a knowledgeable recommendation to the Department of Buildings: conceptual architectural floor plans and color rendered elevations, a conceptual site plan, a conceptual landscape plan, a parking management plan, and a LEED project checklist. The conceptual site plan shall include the building footprint, proposed site access curb cut(s), and off-street parking. The parking management plan shall include any necessary engineering analysis or information required to support shared parking or other requested parking credits.
  - (c) The DRC shall submit a written recommendation to the Department of Buildings stating whether a filed submission should be eligible for exemption from Section 305 procedures within 30 days of its final meeting with an applicant.
  - (d) If an applicant receives a recommendation from the DRC accepting the proposal, then the Commissioner of Buildings is authorized to waive compliance with Section 305 of this Ordinance to the extent that it might otherwise have complied.
  - (e) In reviewing applications, the DRC shall substantially follow the applicable criteria and design guidelines of Section R, Transit Oriented Development District, and such other matters as the DRC may deem germane.
- (2) All applications submitted for new construction on properties located in the TOD District and determined by the Department of Buildings to be compliant with the provisions and guidelines of this article, shall be exempt from Section 305 of the Town Code, which requires a site plan of the property to be submitted to the Town Board for its review and consideration prior to the issuance of a building permit. Approvals from Town of Hempstead Engineering Department, Highways Department, and Conservation and Waterways Department shall be required prior to the issuance of a building permit.

#### V. Workforce housing.

Projects with five (5) or more residential units shall be required to designate 20% or more of the units as affordable to individuals/families earning no more than 60% of Area Median Income (AMI) for the Nassau-Suffolk, NY HUD Metro FMR Area, subject to guidelines, as established by the Town Board.

- (1) All provisions in this section relating to the construction, maintenance and leasing of workforce housing units shall be binding on all successors and assignees of the initial building owner. No certificate of occupancy shall be issued for any building within the Town that is required to contain workforce housing units unless and until all requisite legal documents to effectuate this, as determined by the Town Attorney, are executed and recorded.
- (2) At the conclusion of the thirty-year period during which the requisite units in a building shall be rented as workforce housing units in accordance with the provisions of this section, such units may thereafter be rented by the building owner at market rates, provided that persons renting and occupying a workforce housing unit shall have an additional period after the conclusion of the thirty-year period to vacate the unit, during which time their rental rate shall remain at the level set in accordance with this section; said additional period shall be six (6) months for persons who have resided in the workforce housing unit for less than four (4) years, and twelve

(12) months for persons who have resided in the workforce housing unit for four (4) years or longer. The building owner shall notify every signatory party on a rental agreement of the thirty-year period sunset date and the stipulations of this Code section.

(3) Financial eligibility.

At the time of the determination of financial eligibility, the current annual gross income of all persons living in the eligible person's household shall not exceed 60% of the median household income of the Nassau-Suffolk NY HUD Metro FMR Area, with adjustments for household size, as defined and periodically updated by the United States Department of Housing and Urban Development (HUD). At the time of application for a workforce housing unit, the applicant may be required to submit a sworn certification attesting to the amount of the household's current annual gross income and, as part of the application process, may also be required to submit documentation to confirm said amount, including but not limited to tax returns and pay stubs.

(4) Rent level.

The annual rent to be charged for a workforce housing unit by the building owner shall be a maximum of 30% of the combined current annual gross income of all persons living in the eligible person's household.

(5) Leases.

(a) Leases for workforce housing units shall be in writing; shall have terms of one (1) or two (2) years; shall provide that the rental costs specified therein to the eligible persons shall be adjusted upon each lease renewal; shall provide for termination and nonrenewal in accordance with the provisions of this article; and shall not have provisions which shall be discriminatory vis-à-vis persons in workforce housing units.

(b) No lease for a workforce housing unit shall be assignable. No subletting of all or any portion of a workforce housing unit shall be permitted.

(c) The building owner shall provide the Town annually with a sworn certification that the workforce housing units in the building have been marketed and leased in accordance with the provisions of this section.

(d) In addition to any other notices required by law, the building owner shall provide written notice to the persons occupying a workforce housing unit of a determination that the lease for a workforce housing unit is not being renewed on the grounds that said person is no longer eligible for a workforce housing unit, together with a written explanation of the basis for the determination of noneligibility; and a determination that the lease for a workforce housing unit is being canceled or terminated for any other reason, together with a written explanation of the basis for the proposed cancellation or termination.

(6) Application and selection process.

(a) When workforce housing units shall become available for rental in buildings in the Town pursuant to the provisions of this article, the building owner shall disseminate information



about the availability of workforce housing units by methods reasonably calculated to notify potentially eligible persons. Such notification shall include materially relevant information about the location, size and cost of the workforce housing units to become available; a statement of eligibility guidelines; a description of the application process; a description of the thirty-year sunset date; and contact information to be used by persons interested in obtaining information or submitting an application. The building owner shall provide a copy of such advertising as part of the annually sworn certification for Town review.

(b) Any person who wishes to apply for a workforce housing unit shall become available shall be required to submit a written application demonstrating eligibility for such units under the standards established by this section and documentation to confirm such eligibility.

(c) The application of all persons who have submitted a valid and complete application for a workforce housing unit shall be ranked in accordance to the following categories of priority. Residents of the hamlets of North Lawrence and Inwood shall be defined as residing in either Census Tract 4110 or 4111, as defined by the United States Census Bureau.

[1] Members of the United States Military (Active or Retired), and are Residents of the hamlets of North Lawrence or Inwood.

[2] Volunteer firefighters from the Inwood and Lawrence-Cedarhurst Fire Departments, and are residents of the hamlets of North Lawrence or Inwood.

[3] Residents of the hamlets of North Lawrence and Inwood.

[4] Members of the United States Military (Active or Retired), and are Residents of the Town of Hempstead.

[5] Residents of the Town of Hempstead.

[6] Other residents of Nassau County.

[7] All others.

Applications received within thirty (30) days of the advertising notice shall then be reviewed, and determination of eligibility made by the building owner, according to the order of ranking.

(d) In marketing and selecting tenants for workforce housing units in a building, a building owner shall contract with a third-party entity, such as Long Island Housing Partnership (LIHP) or Community Development Corporation of Long Island (CDCLI), who has experience in developing and implementing affirmative marketing plans for affordable/workforce housing as well as performing income eligibility reviews on behalf of the building owner. The third-party entity will also be responsible for ongoing administration and management of the building's workforce housing program.

(e) A person who has submitted an application for a workforce housing unit shall receive written notice of eligibility or noneligibility within thirty (30) days or at the same time the

selected lessee is notified, whichever is later. For persons deemed not eligible, the notification shall include the reasons therefor.

- (f) Absent good cause shown, any person who is selected to rent a workforce housing unit shall be required to sign a lease for the workforce housing unit within 15 days after the unit becomes available for rental and the eligible person has been notified of eligibility (the availability date). The eligible person may also be required by the building owner to deposit all sums due in connection with entering into a lease within 30 days after the availability date, and to commence paying rent for the workforce housing unit as of 60 days after the availability date. If a selected eligible person is unable or fails to meet these time requirements, then the available workforce housing unit shall be offered to other eligible persons in the order of their ranking in accordance with the provisions of this section.

(7) Loss of eligibility.

- (a) If a person is initially eligible to rent a workforce housing unit, and during such period of eligibility, enters into a lease for a workforce housing unit, but such person subsequently fails to satisfy eligibility standards, then such person's right to continue renting and occupying the workforce housing unit shall end three (3) months after written notice of loss of eligibility is sent to such person, or at the end of such person's current lease, whichever is later. Every lease for a workforce housing unit shall contain a provision stating this. Determinations regarding a loss of eligibility shall be made in accordance with the provisions of this article. Written notice of the loss of eligibility shall be made in accordance with the provisions of this section by the building owner or by the third party handling oversight (e.g. CDCLI or LIHP). Written notice of the loss of eligibility shall be sent by express mail and/or certified mail, return receipt requested, to the persons occupying the workforce housing unit. If the formerly eligible person fails to voluntarily vacate the workforce housing unit at the requisite time, or violates the lease prior to such date, then all appropriate, lawful and available measures shall be used by the building owner to evict such person involuntarily.
- (b) No person who is occupying a workforce housing unit shall be automatically entitled to a renewal lease from the building owner. However, if a renewal lease is not offered by the building owner to an eligible person who continues to satisfy the eligibility requirements of this section, then, for a period of two (2) years after the expiration date of the lease which has not been renewed (the nonrenewed lease), the building owner shall be prohibited from charging a higher rent for the workforce housing unit than that specified in the nonrenewed lease.

(8) Other laws mandating workforce housing.

- (a) In the event that there are other laws or amendments to existing laws which will be or have been enacted by the Town or other governmental authorities (such as New York State or the County) which require the provision of workforce housing units within the Town, including but not limited to the Long Island Workforce Housing Act, the provisions of this article shall govern, unless they are legally preempted by such other law, to the extent they require a greater number of workforce housing units to be provided, or they address issues which are not addressed by such other law.

- (b) The Town Board may, by resolution, adopt such further procedures and regulations as may be necessary to implement and effectuate the construction and leasing of workforce housing units within the Town.

W. TOD infrastructure/improvement district fee.

The Town is imposing a fee that is reasonably related to the burdens produced by the creation of transit oriented development situated around a LIRR station and serving as a commercial center on the Town's infrastructure system and will enable the Town to construct the required infrastructure and streetscape improvements for Town-owned property that will contribute to fulfilling the goals of having transit oriented development. Infrastructure costs associated with public water supply upgrades, public sanitary sewer upgrades, natural gas and/or electric distribution shall be addressed by the respective utility purveyors or at the cost of the developer(s) as determined at the time of an application made to the Town.

- (1) The regulations, requirements and provisions of this section shall apply to all new residential and development located in the Transit Oriented Development District.
- (2) The developer of a project shall pay an infrastructure/improvement fee in accordance with the following:
  - (a) For multi-family residential development: \$10,000 per dwelling unit, excluding designated workforce housing units, only up to a maximum of 20 percent of the total number of units constructed. The infrastructure/improvement fee shall be applied to all workforce housing units constructed in excess of 20 percent of the total number of units constructed.
- (3) The applicant shall pay the fees according to the schedule of fees in place on the date fees are paid.
- (4) No building permit shall be issued unless the fees have been paid.
- (5) The fees paid to the Town pursuant to the provisions of this Section shall be deposited into a TOD Infrastructure/Improvement Fee Account and used solely for the purpose described in this Section. All monies deposited into this account shall be held separate and apart from other Town funds. All interest or other earnings on the unexpended balance in the account shall be credited to the account.
- (6) All monies and interest earnings in the TOD Infrastructure/Improvement Fee Account shall be expended on the construction and related design and administration costs of constructing roadway, infrastructure and streetscape improvements within the TOD District.
- (7) To account for inflation in infrastructure and improvement costs, the fee imposed by this ordinance shall be adjusted automatically on July 1 of each fiscal year, beginning on July 1, 2020, equivalent to 10% of the annual change in the Consumer Price Index.

X. Interpretation; conflicts with other regulations.

- (1) In interpreting and applying the provisions of this article, the rules of interpretation applicable to remedial legislation shall be used so that the spirit and intent of this article shall be observed.
- (2) In the event of a conflict between the provisions of this article and other provisions of this Building Zone Ordinance, the provisions of this article shall control.

**§ 433. Neighborhood Business (NB) Overlay District for North Lawrence and Inwood.**

**A. Statement of intent and purposes.**

It is in the public interest for the Town to utilize its zoning authority to establish a Neighborhood Business (NB) Overlay District, in order to meet the demand for mixed-use development incorporating housing and commercial uses in a walkable environment. The Town recognizes the benefits of development that is consistent with smart growth, which is an approach to development that encourages a mix of building types and uses, diverse housing and transportation options, walkable neighborhoods, development within existing neighborhoods and community engagement. These are some of the principles that are considered the foundation of a smart growth approach.

The area along Lawrence Avenue in North Lawrence is a mix of several different uses, both commercial and industrial, as well as residential. The street is a main thoroughfare for the area, and can become a vibrant, neighborhood-scale mixed-use center for North Lawrence with the creation of a mixed-use district. The area can serve as a commercial center for residents, as well as a place to reside. The area also serves as a transition between the high density housing found in the area around the LIRR train station and the detached and attached residential housing found within the rest of the neighborhood.

The central business district in Inwood is located along Doughty Boulevard. There is a strong need to preserve this identity for the area, and also be able to incorporate residential living to create a distinct mixed-use community. The business district can serve the immediate area as well as the residents who are living there. With design standards in place, the area will have a unique look and feel.

Applicants proposing development in the Neighborhood Business Overlay District have the opportunity to receive an expedited approval process by having the projects initially reviewed by a Town-appointed Design Review Committee (DRC) for advisory comments and assistance with preparing and filing compliant submissions with the Building Department. Initiating an application with the DRC allows applicants the opportunity to not have to extend the approval process timeline by having to follow Section 305 procedures.

**B. Definitions.**

In addition to the definitions of this Building Zone Ordinance, the following special definitions are applicable to this article. In the event of conflict, the following definitions shall be controlling:

**AREA MEDIAN INCOME (AMI)**

The household income for the median household in the Nassau-Suffolk County metropolitan area. Each year, the Department of Housing and Urban Development (HUD) calculates the median income for every metropolitan region in the country. HUD focuses on the region, rather than just the city, because families searching for housing are likely to look beyond the city itself to find a place to live.

**DWELLING UNIT**

A building or portion thereof designed for occupancy by one family only, containing a single kitchen, in which members of a family all live and cook together as a single housekeeping unit. Such a building shall not contain separate or segregated internal partitions or locked internal doors barring access between portions of the dwelling, including bedrooms.

**DESIGN REVIEW COMMITTEE (DRC)**

Comprised of three (3) to five (5) Town designated representatives, chaired by the Building Department Commissioner, selected to provide an initial review of the architecture and site design of a proposed development, and make an advisory recommendation to the Building Department stating whether a filed submission should be eligible for exemption from Section 305 procedures. In the event of an application that would not require Section 305 review under any circumstances, then notwithstanding any provisions of this Article to the contrary, the Design Review Committee shall make an advisory recommendation to the Building Department as to whether the proposed development complies with the architectural and design standards of this Article, or whether the Parking Management Plan is adequate to serve the parking needs of the proposed development. If the Committee finds non-compliance or non-adequacy, then the provisions of this Article shall not be applied to the proposed development.

**FAIR MARKET RENT (FMR)**

Primarily used to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program, and to serve as a rent ceiling in the HOME rental assistance program.

**HEIGHT**

The vertical distance measured from the mean level of the established center-line grade ("crown of road") of the street adjacent to the building plot to the highest point of the roof deck in the case of flat roofs and to the mean level between the eaves and the highest point of the roof in the case of sloped roofs. Each side of the building shall meet this requirement separately. Roof-mounted solar panels are excluded from the definition of height.

**HOUSEHOLD**

The person who seeks to rent a workforce housing unit, together with any other individual who resides in the workforce housing unit, including without limitation, parents, children, spouses, siblings and persons united in a legally recognized civil union.

**MULTIPLE-FAMILY DWELLING UNIT**

A building containing two or more dwelling units.

**WORKFORCE HOUSING UNIT (WHU)**

A residential unit that is mandated to be constructed under the provisions of this article and to be rented or sold to an eligible individual pursuant to the standards set forth in this article.

**C. Applicability.**

In the Neighborhood Business (NB) Overlay District, the following regulations shall apply.

- (1) In North Lawrence, the Neighborhood Business Overlay District applies to parcels on the west side of Lawrence Avenue, between Wanser Avenue and Mott Avenue, and on the east side of Lawrence Avenue between Mill Street and Mott Avenue. The regulations of the Overlay District are applicable to new development and/or redevelopment of eligible properties, as defined in Section N (Minimum lot area and street frontage).

In Inwood, the Neighborhood Business Overlay District applies to parcels located on the east and west sides of Doughty Boulevard, between Bayview Avenue and Solomon Avenue and the east side of Doughty Boulevard, between Solomon Avenue and Mott Avenue. The NB Overlay District also applies to parcels located on the west side of Lord Avenue, between Wanser Avenue and Bayview Avenue. The regulations of the Overlay District are applicable to new development and/or redevelopment of eligible properties, as defined in Section N (Minimum lot area and street frontage).

- (2) The regulations found in this Article shall govern all development that is fully compliant with the regulations. All other development within the overlay district shall continue to be governed by the regulations governing the existing underlying zoning district.

D. Permitted uses.

A building may be erected, altered or used and a lot or premises may be used for the following purposes, and for no other:

- (1) In the Neighborhood Business Overlay District the following uses, and no others, shall be permitted on the ground level:

- (a) Stores for the sale, at retail, of articles to be used or consumed off the premises.
- (b) Personal service shops such as barbershops and beauty parlors.
- (c) Offices (including shared workspace), banks, financial institutions.
- (d) Museums, art galleries.
- (e) Libraries.
- (f) Health clubs.
- (g) Restaurants (including café, deli and bar/tavern).
- (h) Community centers.
- (i) Uses not listed above that are similar in character, scale, and impact to the uses listed above may be allowed if granted special permit by the Town Board, based upon consistency with the regulations and intent of this article.

- (2) In the Neighborhood Business Overlay District the following residential uses, and no others, shall be permitted on the upper levels:

- (a) Multiple-family dwellings.

E. Prohibited uses.

- (1) All uses not expressly permitted are prohibited.

(2) Drive-through facilities.

(3) Above-grade structured parking.

F. Population density.

No multiple-family dwelling shall be erected or altered to accommodate or make provision for more than 24 households per acre.

G. Height.

No building shall be greater than 3 stories or 35 feet in height. "Height" shall be defined as applicable to the Neighborhood Business Overlay District.

H. Building area.

The building area shall not exceed 40% of the lot area.

I. Dwelling unit size.

The minimum dwelling unit size shall be as follows: Studio Apartment – 550 square feet.

J. Front yards.

There shall be a front yard, the depth of which shall be at least 5 feet.

K. Side yards.

There shall be a minimum side yard setback of either 0 or 10 feet. The minimum required aggregate side yard width shall be 40 feet. A minimum landscape buffer strip of not less than 5 feet in width shall be maintained where a side yard setback is provided.

L. Rear yards.

There shall be a rear yard, the depth of which shall be at least 60 feet, which includes a landscape buffer strip of not less than 10 feet in width.

M. Curb cuts.

Every effort shall be made to limit access to one (1) curb cut per developable parcel. The DRC shall allow adjacent lots to share a curb cut provided that common ownership applies or a reciprocal easement is executed.

N. Minimum lot area and street frontage.

No multiple-family dwelling or other building shall be constructed on a lot unless it contains an area of not less than 14,000 square feet and has a minimum street frontage of 100 feet. Corner parcels shall



have a minimum total aggregate street frontage of 200 feet. At least 60% of the building facing street frontage shall be occupied by a ground level structure.

O. Off-street parking.

In the case of a multiple-family dwelling, there shall be provided on the premises parking or garage facilities adequate to accommodate the following requirements: 1 space per unit for a studio unit or a 1-bedroom unit, and an additional 0.5 spaces for each additional bedroom. A minimum of one parking space for each 300 square feet of commercial ground floor area shall be provided. Restaurants shall accommodate 1 space for each 4 seats, plus 1 space for each 4 employees.

P. Design guidelines.

A mixed-use district is intended to accommodate and foster pedestrian usage by combining commercial/retail uses and residential uses in the same building. The interaction of these different uses during day and evening hours provides a dynamic that cannot usually be created with typical single use zones. Having the combination of uses helps to reduce the dependency upon the automobile, makes pedestrians a focal point and encourages human interaction, smaller scale buildings, and a vibrant sidewalk environment.

- (1) Massing. Massing is particularly important in creating the proper context and scale of structures in relation to their setting. Proper building massing should be achieved through the use of sufficient vertical, horizontal and roof articulation of the building. Combinations of one- and two-story elements on the same building are encouraged to facilitate articulation. Dormers, gables, eaves, and other projections may also be used to break up architectural forms.
- (2) Facades. Consistent with the architectural style of the building, street-facing facades should incorporate articulation and mix of color and materials to create diversity in the streetscape. Building elevations other than the street-facing elevation should have similar but less detailed architectural treatments. Street level commercial uses should incorporate clear glass and should be designed to incorporate displays. On a corner lot, a building shall expand a minimum of 50 feet along both street frontages and include an enhanced building articulation and façade treatment.
- (3) Windows. Upper and lower story windows are required for each façade having frontage on a street or open space. At least one (1) window per façade should be large enough to accommodate emergency egress as defined by the current New York State Building Code.
- (4) Roofline variation. Where architecturally appropriate, sloped roofs should provide articulation and variations to divide the massiveness of the roof. Sloped roofs should include eaves, which are a minimum of eighteen inches in width. Sloped roofs should screen mechanical equipment by providing a "roof-well," or by placing the equipment within the roof structure. All rooflines in excess of forty feet wide should be broken up through the use of gables, dormers or other appropriate means. No requirement in this Code shall preclude the ability to install roof-mounted solar panels or associated equipment. Solar panels are considered to satisfy the requirements herein for roofline variation.

- (5) Proportions. The scale of all structures in relation to other structures and spaces is important. Buildings and spaces between buildings should relate easily and openly to the external public areas. To balance horizontal features on longer facades, vertical building elements, such as building entries, should be emphasized.
- (6) Façade modulation. Building facades visible from public rights-of-way or public open space, except ground floor commercial, shall be modulated approximately every forty feet. The modulation shall have a minimum depth of four feet.
- (7) Façade articulation. Facades should be varied and articulated to provide visual interest to pedestrians. The roof line of buildings should be modulated and should include interesting architectural features, such as decorative eave, trim or cornice. Window articulation through use of decorative trim, such as window hoods and the use of smaller regularly spaced windows in upper stories with smaller divided lights. Storefront designs and materials should be allowed to be unique while maintaining the character of the building façade of which they are apart. The base of buildings should be articulated through use of plinths, pilasters or other elements.
- (8) Materials and colors. Exterior building materials and finishes should convey an impression of permanence and durability. Materials such as masonry, stone, stucco, terra cotta, stamped and colored concrete, and tile are encouraged. Where masonry is used for exterior finish, decorative patterns should be considered. These patterns could include a change in color or material. Exterior colors should be given careful consideration in the context of the surrounding buildings and environment.
- (9) Lighting. All residential/commercial mixed-use developments should have exterior lighting that provides adequate visibility at entrances, public sidewalks and open areas with a safe level of illumination at night as defined by the Illuminating Engineering Society (IES) or similar accepted standard. Exterior lighting should be of low intensity, designed to avoid excessive glare, and shielded so that light will not spill out onto surrounding properties or project above the horizontal plane of the adjacent building roofline. This code shall not preclude decorative landscape up-lighting that illuminates plantings adjacent to building walls. Lighting should not blink, flash, oscillate, be of unusually high intensity of brightness, or be unshielded or uncovered.
- (10) Parking. Off-street parking shall either be behind or to the side of development, with ground-floor retail or business along the street frontage. A minimum number of curb cuts shall be allowed, typically one curb cut per building.

### Recommended Design Styles

(Note: Color version of photos can be viewed on the Town's website or in person in the Building Department.)



Q. Landscaping.

All usable open space, such as pedestrian walkways, along streetscapes, separations between buildings, and outdoor parking areas shall be landscaped and provided with control timer, and underground irrigation systems, or an alternative equivalent system. Parking areas shall be screened from all adjoining residential uses and pedestrian-oriented areas through the use of trees, shrubs, walls and/or trellis structures with plants.

R. Stormwater management.

All development shall comply with the stormwater and erosion and sediment control provisions in Article XXXVIII of the Town Code, as well as the New York State General Stormwater Permit and Green Infrastructure and other applicable requirements set forth in the most current version of the New York State Stormwater Design Manual.

S. Signs.

Signs, which are categorized and authorized under the provisions of Article XXIV, are permitted, subject to general consistency with the Neighborhood Business Overlay Design Guidelines. Signs should be an integral part of the building and should be compatible in scale and proportion with building design and other signs.

T. Design review and application submission procedures.

Applicants proposing development in the Neighborhood Business Overlay District have the opportunity to receive an expedited approval process by having the projects initially reviewed by a Town appointed Design Review Committee (DRC) for advisory comments and assistance with preparing and filing compliant submissions with the Building Department. Initiating an application with the DRC allows applicants the opportunity to not have to extend the approval process timeline by having to follow Section 305 procedures.

- (1) There shall be a Design Review Committee for purposes of applying the Neighborhood Business Overlay District Design Guidelines and Site Requirements to perspective application submissions. The DRC has the ability to recommend to the Department of Buildings whether an application has met the criteria to allow it to be eligible for exemption from Section 305 procedures. The DRC shall be governed as follows:
  - (a) The DRC shall be comprised of Town designated representatives (a minimum of three (3) and up to five (5)), chaired by the Commissioner of Buildings, or their appointee. A recommendation from the DRC to the Building Department shall be necessary prior to the submission of building plans for properties located in the Neighborhood Business Overlay District.
  - (b) After an initial meeting has been scheduled with the DRC, the applicant shall submit the following materials in order for the DRC to provide beneficial comments to the applicant and make a knowledgeable recommendation to the Department of Buildings: conceptual architectural floor plans and color rendered elevations, a conceptual site plan, and a

conceptual landscape plan. The conceptual site plan shall include the building footprint, proposed site access curb cut(s), and off-street parking.

- (c) The DRC shall submit a written recommendation to the Department of Buildings stating whether a filed submission should be eligible for exemption from Section 305 procedures within 30 days of its final meeting with an applicant.
  - (d) If an applicant receives a recommendation from the DRC accepting the proposal, then the Commissioner of Buildings is authorized to waive compliance with Section 305 of this Ordinance to the extent that it might otherwise have complied.
  - (e) In reviewing applications, the DRC shall substantially follow the applicable criteria and design guidelines of Section P, Neighborhood Business Overlay District, and such other matters as the DRC may deem germane.
- (2) All applications submitted for new construction on properties located in the Neighborhood Business Overlay District and determined by the Building Department to be compliant with the provisions and guidelines of this article, shall be exempt from Section 305 of the Town Code, which requires a site plan of the property to be submitted to the Town Board for its review and consideration prior to the issuance of a building permit. Approvals from the Town of Hempstead Engineering Department, Highways Department, and Conservation and Waterways Department, shall be required prior to the issuance of a building permit.

#### U. Workforce housing.

Projects with five (5) or more residential units shall be required to designate 10% or more of the units as affordable to individuals/families earning no more than 80% of Area Median Income (AMI) for the Nassau-Suffolk, NY HUD Metro FMR Area, subject to guidelines, as established by the Town Board.

- (1) All provisions in this section relating to the construction, maintenance and leasing of workforce housing units shall be binding on all successors and assignees of the initial building owner. No certificate of occupancy shall be issued for any building within the Town that is required to contain workforce housing units unless and until all requisite legal documents to effectuate this, as determined by the Town Attorney, are executed and recorded.
- (2) At the conclusion of the thirty-year period during which the requisite units in a building shall be rented as workforce housing units in accordance with the provisions of this section, such units may thereafter be rented by the building owner at market rates, provided that persons renting and occupying a workforce housing unit shall have an additional period after the conclusion of the thirty-year period to vacate the unit, during which time their rental rate shall remain at the level set in accordance with this section; said additional period shall be six (6) months for persons who have resided in the workforce housing unit for less than four (4) years, and twelve (12) months for persons who have resided in the workforce housing unit for four (4) years or longer. The building owner shall notify every signatory party on a rental agreement of the thirty-year period sunset date and the stipulations of this Code section.

(3) Financial eligibility.

At the time of the determination of financial eligibility, the current annual gross income of all persons living in the eligible person's household shall not exceed 80% of the median household income of the Nassau-Suffolk NY HUD Metro FMR Area, with adjustments for household size, as defined and periodically updated by the United States Department of Housing and Urban Development (HUD). At the time of application for a workforce housing unit, the applicant may be required to submit a sworn certification attesting to the amount of the household's current annual gross income and, as part of the application process, may also be required to submit documentation to confirm said amount, including but not limited to tax returns and pay stubs.

(4) Rent level.

The annual rent to be charged for a workforce housing unit by the building owner shall be a maximum of 30% of the combined current annual gross income of all persons living in the eligible person's household.

(5) Leases.

(a) Leases for workforce housing units shall be in writing; shall have terms of one (1) or two (2) years; shall provide that the rental costs specified therein to the eligible persons shall be adjusted upon each lease renewal; shall provide for termination and nonrenewal in accordance with the provisions of this article; and shall not have provisions which shall be discriminatory vis-à-vis persons in workforce housing units.

(b) No lease for a workforce housing unit shall be assignable. No subletting of all or any portion of a workforce housing unit shall be permitted.

(c) The building owner shall provide the Town annually with a sworn certification that the workforce housing units in the building have been marketed and leased in accordance with the provisions of this section.

(d) In addition to any other notices required by law, the building owner shall provide written notice to the persons occupying a workforce housing unit of a determination that the lease for a workforce housing unit is not being renewed on the grounds that said person is no longer eligible for a workforce housing unit, together with a written explanation of the basis for the determination of noneligibility; and a determination that the lease for a workforce housing unit is being canceled or terminated for any other reason, together with a written explanation of the basis for the proposed cancellation or termination.

(6) Application and selection process.

(a) When workforce housing units shall become available for rental in buildings in the Town pursuant to the provisions of this article, the building owner shall disseminate information about the availability of workforce housing units by methods reasonably calculated to notify potentially eligible persons. Such notification shall include materially relevant information about the location, size and cost of the workforce housing units to become available; a statement of eligibility guidelines; a description of the application process; a description of

the thirty-year sunset date; and contact information to be used by persons interested in obtaining information or submitting an application. The building owner shall provide a copy of such advertising as part of the annually sworn certification for Town review.

- (b) Any person who wishes to apply for a workforce housing unit shall become available shall be required to submit a written application demonstrating eligibility for such units under the standards established by this section and documentation to confirm such eligibility.
- (c) The application of all persons who have submitted a valid and complete application for a workforce housing unit shall be ranked in accordance to the following categories of priority. Residents of the hamlets of North Lawrence and Inwood shall be defined as residing in either Census Tract 4110 or 4111, as defined by the United States Census Bureau.
  - [1] Members of the United States Military (Active or Retired), and are Residents of the hamlets of North Lawrence or Inwood.
  - [2] Volunteer firefighters from the Inwood and Lawrence-Cedarhurst Fire Departments, and are residents of the hamlets of North Lawrence or Inwood.
  - [3] Residents of the hamlets of North Lawrence and Inwood.
  - [4] Members of the United States Military (Active or Retired), and are Residents of the Town of Hempstead.
  - [5] Residents of the Town of Hempstead.
  - [6] Other residents of Nassau County.
  - [7] All others.

Applications received within thirty (30) days of the advertising notice shall then be reviewed, and determination of eligibility made by the building owner, according to the order of ranking.

- (d) In marketing and selecting tenants for workforce housing units in a building, a building owner shall contract with a third-party entity, such as Long Island Housing Partnership (LIHP) or Community Development Corporation of Long Island (CDCLI), who has experience in developing and implementing affirmative marketing plans for affordable/workforce housing as well as performing income eligibility reviews on behalf of the building owner. The third-party entity will also be responsible for ongoing administration and management of the building's workforce housing program.
- (e) A person who has submitted an application for a workforce housing unit shall receive written notice of eligibility or noneligibility within thirty (30) days or at the same time the selected lessee is notified, whichever is later. For persons deemed not eligible, the notification shall include the reasons therefor.

(f) Absent good cause shown, any person who is selected to rent a workforce housing unit shall be required to sign a lease for the workforce housing unit within 15 days after the unit becomes available for rental and the eligible person has been notified of eligibility (the availability date). The eligible person may also be required by the building owner to deposit all sums due in connection with entering into a lease within 30 days after the availability date, and to commence paying rent for the workforce housing unit as of 60 days after the availability date. If a selected eligible person is unable or fails to meet these time requirements, then the available workforce housing unit shall be offered to other eligible persons in the order of their ranking in accordance with the provisions of this section.

(7) Loss of eligibility.

(a) If a person is initially eligible to rent a workforce housing unit, and during such period of eligibility, enters into a lease for a workforce housing unit, but such person subsequently fails to satisfy eligibility standards, then such person's right to continue renting and occupying the workforce housing unit shall end three (3) months after written notice of loss of eligibility is sent to such person, or at the end of such person's current lease, whichever is later. Every lease for a workforce housing unit shall contain a provision stating this. Determinations regarding a loss of eligibility shall be made in accordance with the provisions of this article. Written notice of the loss of eligibility shall be made in accordance with the provisions of this section by the building owner or by the third party handling oversight (e.g. CDCLI or LIHP). Written notice of the loss of eligibility shall be sent by express mail and/or certified mail, return receipt requested, to the persons occupying the workforce housing unit. If the formerly eligible person fails to voluntarily vacate the workforce housing unit at the requisite time, or violates the lease prior to such date, then all appropriate, lawful and available measures shall be used by the building owner to evict such person involuntarily.

(b) No person who is occupying a workforce housing unit shall be automatically entitled to a renewal lease from the building owner. However, if a renewal lease is not offered by the building owner to an eligible person who continues to satisfy the eligibility requirements of this section, then, for a period of two (2) years after the expiration date of the lease which has not been renewed (the nonrenewed lease), the building owner shall be prohibited from charging a higher rent for the workforce housing unit than that specified in the nonrenewed lease.

(8) Other laws mandating workforce housing.

(a) In the event that that there are other laws or amendments to existing laws which will be or have been enacted by the Town or other governmental authorities (such as New York State or the County) requiring the provision of workforce housing units within the Town, including but not limited to the Long Island Workforce Housing Act, the provisions of this article shall govern, unless they are legally preempted by such other law, to the extent the provisions herein require a greater number of workforce housing units to be provided, or they address issues which are not addressed by such other law.

(b) The Town Board may, by resolution, adopt such further procedures and regulations as may be necessary to implement and effectuate the construction and leasing of workforce housing units within the Town.



V. Infrastructure/improvement district fee.

The Town is imposing a fee that is reasonably related to the burdens produced by the creation of transit oriented development situated around a LIRR station and serving as a commercial center on the Town's infrastructure system and will enable the Town to construct the required infrastructure and streetscape improvements for Town-owned property that will contribute to fulfilling the goals of having transit oriented development. Infrastructure costs associated with public water supply upgrades, public sanitary sewer upgrades, natural gas and/or electric distribution shall be addressed by the respective utility purveyors or at the cost of the developer(s) as determined at the time of an application made to the Town.

- (1) The regulations, requirements and provisions of this section shall apply to all new residential development located in the Neighborhood Business Overlay District.
- (2) The fee shall be calculated at \$2,500 per residential unit.
- (3) The applicant shall pay the fees according to the schedule of fees in place on the date fees are paid.
- (4) No building permit shall be issued unless the fees have been paid.
- (5) The fees paid to the Town pursuant to the provisions of this Section shall be deposited into a TOD Infrastructure/Improvement Fee Account and used solely for the purpose described in this Section. All monies deposited into this account shall be held separate and apart from other Town funds. All interest or other earnings on the unexpended balance in the account shall be credited to the account.
- (6) All monies and interest earnings in the TOD Infrastructure/Improvement Fee Account shall be expended on the construction and related design and administration costs of constructing roadway, infrastructure and streetscape improvements within the TOD District and Neighborhood Business Overlay District.
- (7) To account for inflation in infrastructure and improvement costs, the fee imposed by this ordinance shall be adjusted automatically on July 1 of each fiscal year, beginning on July 1, 2020, equivalent to 10% of the annual change in the Consumer Price Index.

W. Interpretation; conflicts with other regulations.

- (1) In interpreting and applying the provisions of this article, the rules of interpretation applicable to remedial legislation shall be used so that the spirit and intent of this article shall be observed.
- (2) In the event of a conflict between the provisions of this article and other provisions of this Building Zone Ordinance, the provisions of this article shall control.

X. Severability.

If any clause, sentence, section, paragraph or provisions of this article shall be adjudged by a court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder

of this article, but shall be confined in its operation to the clause, sentence, section, paragraph or provisions directly involved in the controversy in which such judgement shall have been rendered.

**§ 434. Residential Townhouse/Rowhouse (TR) Overlay District for North Lawrence and Inwood.**

**A. Statement of intent and purposes.**

It is in the public interest for the Town to utilize its zoning authority to establish a Residential Townhouse/Rowhouse (TR) Overlay District, in order to meet the demand for diverse housing types offered in the Town. The Town recognizes the benefits of development that is consistent with smart growth, which is an approach to development that encourages a mix of building types and uses, diverse housing and transportation options, walkable neighborhoods, development within existing neighborhoods and community engagement. These are some of the principles that are considered the foundation of a smart growth approach.

The primary purpose of Residential Townhouse/Rowhouse (TR) Overlay District is to implement planning and design guidelines for the redevelopment of this area, which will provide a variety of new housing opportunities to support a vibrant and sustainable residential community.

Applicants proposing development in the Residential Townhouse/Rowhouse Overlay District have the opportunity to receive an expedited approval process by having the projects initially reviewed by a Town-appointed Design Review Committee (DRC) for advisory comments and assistance with preparing and filing compliant submissions with the Building Department. Initiating an application with the DRC allows applicants the opportunity to not have to extend the approval process timeline by having to follow Section 305 procedures.

**B. Definitions.**

In addition to the definitions of this Building Zone Ordinance, the following special definitions are applicable to this article. In the event of conflict, the following definitions shall be controlling:

**AREA MEDIAN INCOME (AMI)**

The household income for the median household in the Nassau-Suffolk County metropolitan area. Each year, the Department of Housing and Urban Development (HUD) calculates the median income for every metropolitan region in the country. HUD focuses on the region, rather than just the city, because families searching for housing are likely to look beyond the city itself to find a place to live.

**DWELLING UNIT**

A building or portion thereof designed for occupancy by one family only, containing a single kitchen, in which members of a family all live and cook together as a single housekeeping unit. Such a building shall not contain separate or segregated internal partitions or locked internal doors barring access between portions of the dwelling, including bedrooms.

**DESIGN REVIEW COMMITTEE (DRC)**

Comprised of three (3) to five (5) Town designated representatives, chaired by the Building Department Commissioner, selected to provide an initial review of the architecture and site design of a proposed development, and make an advisory recommendation to the Building Department stating whether a filed submission should be eligible for exemption from Section 305 procedures. In the event of an application that would not require Section 305 review under any circumstances, then notwithstanding any provisions of this Article to the contrary, the Design Review Committee shall make an advisory recommendation to the Building Department as to whether the proposed

development complies with the architectural and design standards of this Article, or whether the Parking Management Plan is adequate to serve the parking needs of the proposed development. If the Committee finds non-compliance or non-adequacy, then the provisions of this Article shall not be applied to the proposed development.

**FAIR MARKET RENT (FMR)**

Primarily used to determine payment standard amounts for the Housing Choice Voucher program, to determine initial renewal rents for some expiring project-based Section 8 contracts, to determine initial rents for housing assistance payment contracts in the Moderate Rehabilitation Single Room Occupancy program, and to serve as a rent ceiling in the HOME rental assistance program.

**HEIGHT**

The vertical distance measured from the mean level of the established center-line grade ("crown of road") of the street adjacent to the building plot to the highest point of the roof deck in the case of flat roofs and to the mean level between the eaves and the highest point of the roof in the case of sloped roofs. Each side of the building shall meet this requirement separately. Roof-mounted solar panels are excluded from the definition of height.

**HOUSEHOLD**

The person who seeks to rent a workforce housing unit, together with any other individual who resides (for more than 30 days per year) in the workforce housing unit, including without limitation, parents, children, spouses, siblings and persons united in a legally recognized civil union.

**ROWHOUSE**

One of a series of houses, typically 2-3 stories, connected by common sidewalls and forming a continuous group. Entry is found directly or close to the front sidewalk, with parking in the rear.

**TOWNHOUSE**

Residential units with multiple floors that mimic a detached home, with a continuous roof and foundation, but are attached in a multi-unit complex, with each unit having its own outside door and parking area/driveway located in the front

**WORKFORCE HOUSING UNIT (WHU)**

A residential unit that is mandated to be constructed under the provisions of this article and to be rented or sold to an eligible individual pursuant to the standards set forth in this article.

**C. Applicability.**

In the Residential Townhouse/Rowhouse (TR) Overlay District, the following regulations shall apply.

- (1) In North Lawrence, the Residential Townhouse/Rowhouse Overlay District applies to any parcel zoned Res-B, Res-C, Res-CA or Bus, located west of Lawrence Avenue, south of Pearl Street, east of Nassau Expressway and north of the Town boundary. The regulations of the Overlay District are applicable to new development and/or redevelopment of eligible properties, as defined in Section M (Minimum lot area and street frontage).

In Inwood, the Residential Townhouse/Rowhouse Overlay District applies to any parcel zoned Res-B that has frontage on the north side of Wanser Avenue, between Doughty Boulevard and

the Nassau Expressway or on the south side of Wanser Avenue, between Lord Avenue and the Nassau Expressway. The regulations of the Overlay District are applicable to new development and/or redevelopment of eligible properties, as defined in Section M (Minimum lot area and street frontage).

- (2) The regulations found in this Article shall govern all development that is fully compliant with the regulations. All other development within the overlay district shall continue to be governed by the regulations governing the existing underlying zoning district.

D. Permitted uses.

A building may be erected, altered or used and a lot or premises may be used for the following purposes, and for no other:

- (1) In the Residential Townhouse/Rowhouse Overlay District the following uses, and no others, shall be permitted:

- (a) Single-family attached dwellings.

E. Population density.

No multiple-family dwelling shall be erected or altered to accommodate or make provision for more than 15 households per acre.

F. Height.

No building shall be greater than 3 stories or 35 feet in height. "Height" shall be defined as applicable to the Residential Townhouse/Rowhouse Overlay District

G. Building area.

The building area shall not exceed 50% of the lot area.

H. Dwelling unit size.

The minimum dwelling unit size shall be no less than 18 feet in width.

I. Front yards.

- (1) The required front yard setback shall be a minimum of 25 feet for a townhouse and 10 feet for a rowhouse.

- (2) In the case of a corner lot, a front yard setback shall be required on each street.

J. Side yards.

For townhouses, there shall be two (2) side yards, one on each side of the main building, each having a minimum width of at least 10 feet. For rowhouses, there shall be a minimum side yard setback of 30

feet on the side where a driveway is present, and a minimum side yard setback of 10 feet on the opposite side, with a minimum aggregate of 40 feet. Where a driveway is present in the side yard setback, a landscape buffer strip of not less than 5 feet in width shall be maintained.

K. Rear yards.

There shall be a rear yard, the depth of which shall be at least 25 feet for a townhouse, and for a rowhouse there shall be a landscape buffer strip of not less than 10 feet in width along the rear property line.

L. Curb cuts.

For rowhouses, there shall be only one (1) curb cut per each grouping.

M. Minimum lot area, lot depth and street frontage.

No dwelling or other building shall be constructed on a lot unless it contains an area of not less than 12,000 square feet, has a lot depth of no less than 100 feet, and has a minimum street frontage of 125 feet. Corner parcels shall have a minimum total aggregate street frontage of 200 feet.

N. Off-street parking.

Two (2) spaces shall be provided for each dwelling unit on premises, with at least one (1) parking space located in a garage. Parking for townhouses shall be in the front of the building, and parking for rowhouses shall be in the rear of the building.

O. Design guidelines.

Buildings should foster an appearance of a residential neighborhood. Individual units should have a presence on the street and not be walled-off or oriented inward. Living areas with windows, decks and porches, which overlook common areas and drives, are encouraged.

- (1) Building entries. Dwelling entry elements such as stoops and porches should be the predominant façade feature. Entry features should primarily be single-story elements, or incorporated into two story vertical elements to break up the building mass along the street.
- (2) Massing. Massing should typically emphasize individual units. The massing of rowhouses should break the main façade into three or four distinct elements: entry; main façade; a two or three story element and the roof. Front building facades should have step-backs, at or above the second floor (i.e. a smaller footprint for at least one (1) upper level as compared to the footprint of the ground floor). The difference between ground floor and upper floor footprints should be at least ten percent. Basement space, if it is provided, shall not constitute the basis of comparison for upper-floor footprints.
- (3) Articulation. Building façades and roof lines should provide articulation to provide identity for individual units. Long horizontal eaves and roof elements across the façade should be broken up with gables, building projections and articulation. Façade articulation should reflect the rhythm of nearby residential areas with porches, projecting eaves and overhangs, and other

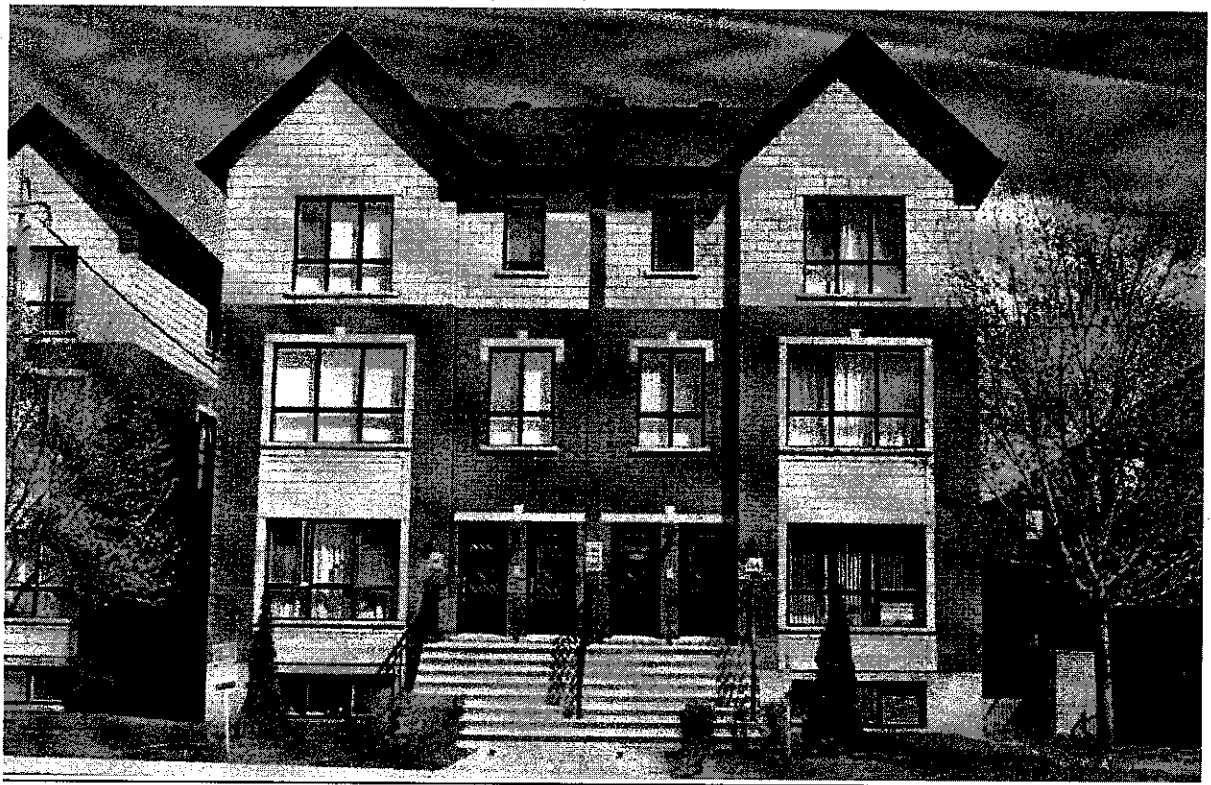
architectural elements such as bay windows, chimneys, and porches which provide residential scale and help to break up building mass. Projecting eaves and roof gables should be related to corresponding projections in building masses. Projections should extend beyond main façade, to increase building articulation. On corner lots, side yard facades shall maintain the architectural design quality consistent with the front façade.

- (4) **Rooflines.** Rooflines should emphasize the individual quality of the units. Rooflines should correspond to variations in building massing and articulation with bays, gables, dormers and strong eave elements. Roof elements should be varied to minimize the appearance of mass and bulk. Gable roofs are encouraged to emphasize vertical proportion and create modulation. Roof-mounted solar panels help satisfy the intent of this line item. No requirement in this Code shall preclude the ability to install roof-mounted solar panels or associated equipment. Solar panels are considered to satisfy the requirements herein for roofline variation.
- (5) **Materials.** Building materials are an important component of a quality residential environment and should be used in a consistent and harmonious manner. New rowhouse development should emphasize high-quality durable materials that are harmonious with existing neighborhood development. The massing and articulation of townhouses and rowhouses will have greater emphasis if the elements are differentiated by a change in detail, color or material. Changes in materials generally should not occur on the same plane as this may result in an insubstantial or applied quality. Changes in detail, color, or material should correspond to variations in building mass. "Piecemeal" and frequent changes in materials should be avoided. Although differentiation of units is desired using dramatically different architectural styles from unit to unit within the same development block is generally discouraged. The base (lower band or lower level) of each building should be clearly defined with a heavier material such as brick or stone or with a darker color than the rest of the building.
- (6) **Windows.** Windows are a very important element of building form and should be well organized on a building façade to create a rhythm or pattern. Windows should emphasize vertical massing of individual rowhouse units. Windows should have a hierarchy of sizes emphasizing the function of the living spaces and views while allowing for privacy of neighboring properties. Windows should be well detailed and consistent with the architectural design of the building. Windows should be recessed from the exterior building wall and should be defined by well-designed trims on the exterior. Facades that face streets and open spaces should include windows on upper levels.
- (7) **Side elevations.** Side elevations which face the street should be designed with the same standards as front elevations, including attractive materials, doors and decks.
- (8) **Garage parking.** Townhouses/Rowhouses shall provide at-grade or slightly below grade parking garages for resident parking.



Recommended Design Styles  
(Note: Color version of photos can be viewed on the Town's website or in person in the Building Department.)





P. Design review and application submission procedures.

Applicants proposing development in the Residential Townhouse/Rowhouse Overlay District have the opportunity to receive an expedited approval process by having the projects initially reviewed by a Town appointed Design Review Committee (DRC) for advisory comments and assistance with preparing and filing compliant submissions with the Building Department. Initiating an application with the DRC allows applicants the opportunity to not have to extend the approval process timeline by having to follow Section 305 procedures.

- (1) There shall be a Design Review Committee for purposes of applying the Residential Townhouse/Rowhouse Overlay District Design Guidelines and Site Requirements to perspective application submissions. The DRC has the ability to recommend to the Department of Buildings whether an application has met the criteria to allow it to be eligible for exemption from Section 305 procedures. The DRC shall be governed as follows:
  - (a) The DRC shall be comprised of Town designated representatives (a minimum of three (3) and up to five (5)), chaired by the Commissioner of Buildings, or their appointee. A recommendation from the DRC to the Building Department shall be necessary prior to the submission of building plans for properties located in the Residential Townhouse/Rowhouse Overlay District.
  - (b) After an initial meeting has been scheduled with the DRC, the applicant shall submit the following materials in order for the DRC to provide beneficial comments to the applicant and make a knowledgeable recommendation to the Department of Buildings: conceptual architectural floor plans and color rendered elevations, a conceptual site plan, and a conceptual landscape plan.
  - (c) The DRC shall submit a written recommendation to the Department of Buildings stating whether a filed submission should be eligible for exemption from Section 305 procedures within 30 days of its final meeting with an applicant.
  - (d) If an applicant receives a recommendation from the DRC accepting the proposal, then the Commissioner of Buildings is authorized to waive compliance with Section 305 of this Ordinance to the extent that it might otherwise have complied.
  - (e) In reviewing applications, the DRC shall substantially follow the applicable criteria and design guidelines of Section O, Residential Townhouse/Rowhouse Overlay District, and such other matters as the DRC may deem germane.
- (2) All applications submitted for new construction on properties located in the Residential Townhouse/Rowhouse Overlay District and determined by the Department of Buildings to be compliant with the provisions and guidelines of this article, shall be exempt from Section 305 of the Town Code, which requires a site plan of the property to be submitted to the Town Board for its review and consideration prior to the issuance of a building permit. Approvals from the Town of Hempstead Engineering Department, Highways Department, and Conservation and Waterways Department shall be required prior to the issuance of a building permit.

Q. Workforce housing.

Projects with five (5) or more residential units shall be required to designate 10% or more of the units as affordable to individuals/families earning no more than 100% of Area Median Income (AMI) for the Nassau-Suffolk, NY HUD Metro FMR Area, subject to guidelines, as established by the Town Board.

- (1) All provisions in this section relating to the construction, maintenance and leasing of workforce housing units shall be binding on all successors and assignees of the initial building owner. No certificate of occupancy shall be issued for any building within the Town that is required to contain workforce housing units unless and until all requisite legal documents to effectuate this, as determined by the Town Attorney, are executed and recorded.
- (2) At the conclusion of the thirty-year period during which the requisite units in a building shall be rented as workforce housing units in accordance with the provisions of this section, such units may thereafter be rented by the building owner at market rates, provided that persons renting and occupying a workforce housing unit shall have an additional period after the conclusion of the thirty-year period to vacate the unit, during which time their rental rate shall remain at the level set in accordance with this section; said additional period shall be six (6) months for persons who have resided in the workforce housing unit for less than four (4) years, and twelve (12) months for persons who have resided in the workforce housing unit for four (4) years or longer. The building owner shall notify every signatory party on a rental agreement of the thirty-year period sunset date and the stipulations of this Code section.
- (3) Financial eligibility.

At the time of the determination of financial eligibility, the current annual gross income of all persons living in the eligible person's household shall not exceed 100% of the median household income of the Nassau-Suffolk NY HUD Metro FMR Area, with adjustments for household size, as defined and periodically updated by the United States Department of Housing and Urban Development (HUD). At the time of application for a workforce housing unit, the applicant may be required to submit a sworn certification attesting to the amount of the household's current annual gross income and, as part of the application process, may also be required to submit documentation to confirm said amount, including but not limited to tax returns and pay stubs.

(4) Rent level.

The annual rent to be charged for a workforce housing unit by the building owner shall be a maximum of 30% of the combined current annual gross income of all persons living in the eligible person's household.

(5) Leases.

- (a) Leases for workforce housing units shall be in writing; shall have terms of one (1) or two (2) years; shall provide that the rental costs specified therein to the eligible persons shall be adjusted upon each lease renewal; shall provide for termination and nonrenewal in accordance with the provisions of this article; and shall not have provisions which shall be discriminatory vis-à-vis persons in workforce housing units.

- (b) No lease for a workforce housing unit shall be assignable. No subletting of all or any portion of a workforce housing unit shall be permitted.
  - (c) The building owner shall provide the Town annually with a sworn certification that the workforce housing units in the building have been marketed and leased in accordance with the provisions of this section.
  - (d) In addition to any other notices required by law, the building owner shall provide written notice to the persons occupying a workforce housing unit of a determination that the lease for a workforce housing unit is not being renewed on the grounds that said person is no longer eligible for a workforce housing unit, together with a written explanation of the basis for the determination of noneligibility; and a determination that the lease for a workforce housing unit is being canceled or terminated for any other reason, together with a written explanation of the basis for the proposed cancellation or termination.
- (6) Application and selection process.
- (a) When workforce housing units shall become available for rental in buildings in the Town pursuant to the provisions of this article, the building owner shall disseminate information about the availability of workforce housing units by methods reasonably calculated to notify potentially eligible persons. Such notification shall include materially relevant information about the location, size and cost of the workforce housing units to become available; a statement of eligibility guidelines; a description of the application process; a description of the thirty-year sunset date; and contact information to be used by persons interested in obtaining information or submitting an application. The building owner shall provide a copy of such advertising as part of the annually sworn certification for Town review.
  - (b) Any person who wishes to apply for a workforce housing unit shall become available shall be required to submit a written application demonstrating eligibility for such units under the standards established by this section and documentation to confirm such eligibility.
  - (c) The application of all persons who have submitted a valid and complete application for a workforce housing unit shall be ranked in accordance to the following categories of priority. Residents of the hamlets of North Lawrence and Inwood shall be defined as residing in either Census Tract 4110 or 4111, as defined by the United States Census Bureau.
    - [1] Members of the United States Military (Active or Retired), and are Residents of the hamlets of North Lawrence or Inwood.
    - [2] Volunteer firefighters from the Inwood and Lawrence-Cedarhurst Fire Departments, and are residents of the hamlets of North Lawrence or Inwood.
    - [3] Residents of the hamlets of North Lawrence and Inwood.
    - [4] Members of the United States Military (Active or Retired), and are Residents of the Town of Hempstead.
    - [5] Residents of the Town of Hempstead.

[6] Other residents of Nassau County.

[7] All others.

Applications received within thirty (30) days of the advertising notice shall then be reviewed, and determination of eligibility made by the building owner, according to the order of ranking.

- (d) In marketing and selecting tenants for workforce housing units in a building, a building owner shall contract with a third-party entity, such as Long Island Housing Partnership (LIHP) or Community Development Corporation of Long Island (CDCLI), who has experience in developing and implementing affirmative marketing plans for affordable/workplace housing as well as performing income eligibility reviews on behalf of the building owner. The third-party entity will also be responsible for ongoing administration and management of the building's workforce housing program.
- (e) A person who has submitted an application for a workforce housing unit shall receive written notice of eligibility or noneligibility within thirty (30) days or at the same time the selected lessee is notified, whichever is later. For persons deemed not eligible, the notification shall include the reasons therefor.
- (f) Absent good cause shown, any person who is selected to rent a workforce housing unit shall be required to sign a lease for the workforce housing unit within 15 days after the unit becomes available for rental and the eligible person has been notified of eligibility (the availability date). The eligible person may also be required by the building owner to deposit all sums due in connection with entering into a lease within 30 days after the availability date, and to commence paying rent for the workforce housing unit as of 60 days after the availability date. If a selected eligible person is unable or fails to meet these time requirements, then the available workforce housing unit shall be offered to other eligible persons in the order of their ranking in accordance with the provisions of this section.

(7) Loss of eligibility.

- (a) If a person is initially eligible to rent a workforce housing unit, and during such period of eligibility, enters into a lease for a workforce housing unit, but such person subsequently fails to satisfy eligibility standards, then such person's right to continue renting and occupying the workforce housing unit shall end three months after written notice of loss of eligibility is sent to such person, or at the end of such person's current lease, whichever is later. Every lease for a workforce housing unit shall contain a provision stating this. Determinations regarding a loss of eligibility shall be made in accordance with the provisions of this article. Written notice of the loss of eligibility shall be made in accordance with the provisions of this section by the building owner or by the third party handling oversight (e.g. CDCLI or LIHP). Written notice of the loss of eligibility shall be sent by express mail and/or certified mail, return receipt requested, to the persons occupying the workforce housing unit. If the formerly eligible person fails to voluntarily vacate the workforce housing unit at the requisite time, or violates the lease prior to such date, then all appropriate, lawful and available measures shall be used by the building owner to evict such person involuntarily.

(b) No person who is occupying a workforce housing unit shall be automatically entitled to a renewal lease from the building owner. However, if a renewal lease is not offered by the building owner to an eligible person who continues to satisfy the eligibility requirements of this section, then, for a period of two (2) years after the expiration date of the lease which has not been renewed (the nonrenewed lease), the building owner shall be prohibited from charging a higher rent for the workforce housing unit than that specified in the nonrenewed lease.

(8) Other laws mandating workforce housing.

(a) In the event that there are other laws or amendments to existing laws which will be or have been enacted by the Town or other governmental authorities (such as New York State or the County) requiring the provision of workforce housing units within the Town, including but not limited to the Long Island Workforce Housing Act, the provisions of this article shall govern, unless they are legally preempted by such other law, to the extent the provisions herein require a greater number of workforce housing units to be provided, or they address issues which are not addressed by such other law.

(b) The Town Board may, by resolution, adopt such further procedures and regulations as may be necessary to implement and effectuate the construction and leasing of workforce housing units within the Town.

R. Interpretation; conflicts with other regulations.

(3) In interpreting and applying the provisions of this article, the rules of interpretation applicable to remedial legislation shall be used so that the spirit and intent of this article shall be observed.

(4) In the event of a conflict between the provisions of this article and other provisions of this Building Zone Ordinance, the provisions of this article shall control.

S. Severability.

If any clause, sentence, section, paragraph or provisions of this article shall be adjudged by a court of competent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder of this article, but shall be confined in its operation to the clause, sentence, section, paragraph or provisions directly involved in the controversy in which such judgement shall have been rendered.