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County            City            Town            x Village            of            Island Park

(Select One)

**Local Law No. 2 of the year 2021**

**A local law is hereby adopted to read as follows:**

**TITLE: Island Park Transit Oriented Development Overlay District (TOD Overlay)**

**§ 1. Statement of intent and purpose.**

**A. Background.**

- (1) The Incorporated Village of Island Park’s Business District, centered on Long Beach Road, is located within the Town of Hempstead, New York along the south shore of Nassau County. Despite its location as a gateway to the City of Long Beach and the presence a Long Island Rail Road (LIRR) station within walking distance of its downtown, efforts by the Village to support redevelopment of the Business and Commercial districts have suffered from stagnant economic performance, vacant storefronts, lack of diversified housing options, deficient pedestrian activity, and underutilization of the waterfront.
- (2) The existing Commercial Districts do not permit residential uses. The existing Business District does not permit non-age-restricted residential uses. This limits the Village from offering diversified housing options and meeting the growing demand for mixed-use, multi-family housing near transit. Furthermore, the current zoning code does not provide the Village with the tools necessary to encourage a vibrant, walkable downtown or business/commercial district.
- (3) In 2012, Superstorm Sandy caused substantial damage to many of the businesses along Long Beach Road, the Village’s commercial corridor. This event, along with damage from other storms, high tides and flooding, resulted in businesses being closed for months, with some businesses not reopening at all.
- (4) As indicated in both the *Barnum Island/Oceanside/the Village of Island Park/Harbor Isle NY Rising Community Reconstruction Plan* and the subsequent Perkins Eastman/Dormitory Authority of the State of New York (DASNY) and Governor’s Office of Storm Recovery (GOSR) report entitled *Island Park Downtown Revitalization & Transit-Oriented Development Plan*, implementing transit-oriented and walkable

neighborhood development (TOD), centered around the downtown, the LIRR station and Austin Boulevard “would provide local business with options for connecting to patrons and create linkages between neighborhood and that waterfront that have been previously separated.” TOD should also include a variety of housing and mixed-use development.

**B. Purpose and legislative intent.**

- (1) Based on the Village’s background and current conditions, it is the intent of the Village to grow and solidify the tax base, reduce traffic congestion and parking demand, improve resiliency and sustainability, and provide housing options within walking distance to downtown and transit. It is also critical that the overall character of the Village is maintained with any future development that may result from implementation of the proposed zoning amendments and that Village resources are not over-burdened by future development.
- (2) Based on the forgoing, the Village is seeking to facilitate revitalization through the implementation of a new Transit-Oriented Development (TOD) Overlay District. The proposed TOD Overlay would be located within the Business and Commercial Districts in order to encourage development and redevelopment of properties within these districts, which are proximate to the LIRR station.
- (3) The Island Park community has long recognized its assets and envisions Island Park as a commercially vibrant, pedestrian-friendly downtown, with a multi-modal LIRR station area at its center. The proposed TOD Overlay District will provide a framework for future development to support this vision of the revitalization of the Village.
- (4) Applying the foregoing principles, the Village of Island Park finds:
  - a. It is appropriate to encourage residential development and redevelopment on suitable sites within walking distance of:
    - i. The Long Island Rail Road station in the Village; and
    - ii. The Business District of the Village;
  - b. It is desirable to allow mixed use redevelopment/redevelopment, including residential uses within the Business District.
  - c. It is also desirable to allow residential development within the Commercial Districts.
- (5) The purpose of the TOD Overlay District will be to facilitate in the Business and Commercial districts, the envisioned vibrant transit-oriented redevelopment incorporating a mix of new housing options, together with existing retail, commercial and other compatible uses that contribute to the enhancement and long-term sustainability of the community, while maintaining the underlying zoning in order not to create non-conforming uses.
- (6) The TOD Overlay District regulations set forth in this Article are designed to (i) build upon the strengths of Island Park and its Business and Commercial areas, including its location proximate to the LIRR train station; (ii) infuse new energy and activity to enhance Island Park’s Business and Commercial areas; (iii) make Island Park more economically and

environmentally sustainable for the future; and (iv) foster and improve the existing aesthetic appearance of the Long Beach Road corridor.

- (7) All new construction (whether development or redevelopment) within the TOD Overlay District shall adhere to the regulations of Chapter 264, Flood Damage Prevention, of the Village of Island Park Village Code.
- (8) With the stated goals in view, this Article is enacted with the intention of promoting the health, safety and general welfare of the Village of Island Park and its residents.
- (9) This Article is enacted under the authority of § 7-703 of the Village Law of the State of New York and § 10 of the Municipal Home Rule Law of the State of New York, which permits the use of incentive zoning.

## **§ 2. Title.**

This Article shall be known and cited as the "Island Park Transit Oriented Development Overlay District (TOD Overlay) Article" of the Village of Island Park.

## **§ 3. Definitions.**

In addition to the definitions of this Zoning Chapter, the following special definitions are applicable to this Article. In the event of conflict, the following definition shall be controlling:

### **Mixed-Use Building**

A building containing a business or commercial use on the first or ground floor with residential or other permitted use above.

## **§ 4. Amended zoning map; Schedule of regulations.**

This enactment shall include (i) the approval and filing of a new zoning map reflecting changes described herein (hereinafter the "updated Zoning Map" or "Zoning Map"); and (ii) the approval and adoption of the *Schedule of Bulk and Dimensional Regulations*.

## **§ 5. Applicability; Subdistricts.**

In the TOD Overlay District, the following regulations shall apply:

- A. The area within Island Park designated as the TOD Overlay District is largely developed. As a result, the TOD Overlay District has been designed as an overlay district, with its regulations applicable to new development, redevelopment, and building expansions which result in a ten percent or greater increase in the building's floor area. For existing uses and rehabilitations and expansions less than 10% of the gross floor area, existing zoning regulations shall still apply.
- B. For purposes of this Article, the TOD Overlay District shall be divided into two subdistricts as indicated on the Zoning Map described in § 4 of this Article. These subdistricts are:

- (1) TOD Overlay - Business Subdistrict, which is applicable to properties located within the existing Business District and Commercial B District
- (2) TOD Overlay - Waterfront Subdistrict, which is applicable to properties located along the Village's waterfront and zoned either Commercial A or Commercial C

#### **§ 6. Permitted uses in the TOD Overlay – Business Subdistrict**

In the TOD Overlay Business Subdistrict, no lot or building shall be erected, altered or used other than as follows:

##### **A. Principal Uses.**

- (1) Existing uses permitted within the Business District and Commercial B District, except those uses permitted in the Commercial A District
- (2) Apartment Houses or Multiple Dwellings.
- (3) Mixed-use buildings, as defined in this Article

##### **B. Accessory uses.** The following uses customarily incidental to permitted uses shall be permitted in the TOD Overlay District:

- (1) Off-street parking and loading.
- (2) Open space or plaza areas.
- (3) Signage.

#### **§ 7. Permitted uses in the TOD Overlay – Waterfront Subdistrict**

In the TOD Overlay Waterfront Subdistrict, no lot or building shall be erected, altered or used other than as follows:

##### **A. Principal Uses.**

- (1) Existing uses within the Commercial A District and Commercial C District.
- (2) Apartment Houses or Multiple Dwellings.

##### **B. Accessory uses.** The following uses customarily incidental to permitted uses shall be permitted in the TOD Overlay District:

- (1) Off-street parking.
- (2) Signage.
- (3) Boat slips associated with Multiple Dwelling units
- (4) Indoor and outdoor recreational facilities associated with Multiple Dwelling units.

#### **§ 8. Schedule of Bulk and Dimensional Regulations**

- A. Consistent with primary goals of the TOD Overlay District, the lot and bulk controls allow for greater intensities of development for properties along Long Beach Road and along the waterfront, closest to the Island Park LIRR station. The lot and bulk controls for the TOD Business subdistrict facilitate appropriately scaled mixed-use commercial and residential

development, and economic development within the area along Long Beach Road. The TOD Waterfront subdistrict facilitates residential development along the Waterfront. The Schedule of Bulk and Dimensional Regulations is included at the end of this Article.

**§ 9. Off-street Parking.**

Accessory parking. Accessory off-street automobile parking spaces shall be provided on the same lot or premises or off the premises within 1,500 feet of such premises. A minimum of one parking space per unit shall be provided on-site. The minimum number of accessory parking spaces required shall be determined by the type of each included use and shall be calculated as follows.

<b>Use</b>	<b>TOD Business District</b>	<b>TOD Waterfront District</b>
Retail/Commercial	1 space per 300 SF	See §625-35
Multiple Dwelling/Apartment House: Studios	1 space per unit	1 space per unit
Multiple Dwelling/Apartment House: One-bedroom units	1 space per unit	1.3 spaces per unit
Multiple Dwelling/Apartment House: Two-bedroom units	1.5 spaces per unit	1.75 spaces per unit
Multiple Dwelling/Apartment House: Three or more bedroom units	1.75 spaces per unit	2 spaces per unit
All Other Permitted Uses	Shall comply with the parking requirements outlined in §§625-35 and/or 625-38 of the Village Zoning Code	

## **§ 10. Sustainability and Green Building Design.**

Sustainability and green building refer to the practice of creating buildings using a process that is environmentally responsible and resource-efficient throughout a building's life-cycle: from siting to design, construction, operation, maintenance, renovation, and demolition. Buildings shall be designed for resiliency, durability, and adaptability. New buildings created under this Chapter shall be compliant with Federal and State guidelines related to environmental regulations, including but not limited to the Federal Emergency Management Agency and New York State Energy Conservation Construction Code.

## **§ 11. Application Procedures.**

The procedure for any application for development under this Article shall involve a preliminary application, as well as the approval of a final detailed site plan and subdivision plat, if applicable, by the Board of Trustees. For the sake of clarity, all development proposals for land situated within the TOD Overlay District must originate by a petition to the Board of Trustees, filed with the Superintendent of Buildings, and must be brought under this Article in lieu of any other provisions of the Village Code.

### **A. Procedure for approval.**

- (1) In its discretion, the Board of Trustees may determine, at any time, with or without a public hearing, and with or without review pursuant to SEQRA and its implementing regulations, that an application which requires discretionary approval by the Board of Trustees will be denied or not entertained.
- (2) If the Board of Trustees determines to entertain a preliminary application for approval pursuant to this section, the applicant shall be required to submit to the Village a final detailed set of plans including a final site plan and subdivision plan (if applicable) and such additional materials and information as the Board of Trustees may require. Once all submissions have been made to the satisfaction of the Board of Trustees, the Board of Trustees shall promptly schedule and hold a public hearing on the application pursuant to the same notice and procedural requirements that are prescribed for Village local law adoption.
- (3) The requirements of SEQRA and its implementing regulations shall be complied with for any application pursuant to this section.

### **B. Preliminary Application.**

A preliminary application for development, redevelopment or expansion of a property/building located within the TOD Overlay District under this Article shall be made by submitting a petition to the Board of Trustees. Such petition shall be accompanied by the following:

- (1) The names and addresses of the property owner(s), the applicant(s), if other than the owner(s), and the planner, engineer, architect, surveyor, and/or other professional engaged to work on the project.
- (2) Where the applicant(s) is/are not the owner(s) of the property, written authorization from the owner(s) for the submission of the application.
- (3) Concept Plan for inclusion of the subject property into the TOD Overlay District

- (4) Description of the proposed development program.
- (5) Any such other materials deemed necessary by the Board of Trustees to make a preliminary determination as to whether to further consider the application.

The Board of Trustees shall, within 60 days of the receipt of a completed preliminary application, decide, by resolution, to advance the preliminary application for further consideration pursuant to the requirements of this section or to deny the preliminary application and end the consideration of such application.

**C. Final Application for Implementation of the TOD Overlay under this Article.**

Where the Board of Trustees votes to advance a preliminary application for further consideration, the applicant shall submit the following materials to the Board of Trustees in connection with its final application:

Should the Board of Trustees entertain the petition as noted in Section 11 - B, above, the petitioner/applicant shall provide, at a minimum, the following:

- (1) 10 copies of all documents and plans, in conformance with §625-79. A – C of the Village Code, including site plan application, survey, site plans, floor plan, radius map with a complete and accurate list of names of property owners
- (2) 10 copies of a completed New York State Part 1 – Full Environmental Assessment Form
- (3) Applicable application fee
- (4) A conflict of interest disclosure statement on forms provided by the Village
- (5) A written undertaking of applicant, in form acceptable to the Village, agreeing that applicant shall reimburse the Village for its actual out-of-pocket expenses of counsel and consultants (engineering, environmental, etc.) to be retained by the Village to assist the Village in considering the application, together with a deposit, in an amount to be determined by the Board of Trustees, as an advance against such reimbursement obligations. Applicant shall, if requested by the Village, make additional advances to the Village as necessary to restore such deposit as expenses are incurred and the advance depleted.
- (6) Such other information as may be determined necessary by the Board of Trustees in order to properly enable them to review and decide upon the application.

**D. Decision by the Board of Trustees.**

- (1) Within 60 days of the receipt of a complete final application, the Board of Trustees shall hold a public hearing on such application pursuant to the applicable provisions of the Village Law.
- (2) The Board of Trustees will render a decision on the final application after it closes the public hearing. The Board of Trustees may deny, approve or approve with modifications or conditions the application. The Board of Trustees shall render such decision within 60 days of the close of the public hearing and provide such decision in writing to the petitioner/applicant.

- (3) The Board of Trustees may require, incident to granting an approval, that the applicant(s) submit a declaration, to be recorded in the Office of the Nassau County Clerk, imposing such covenants and restrictions on the property included in such district as the Board of Trustees may deem necessary or desirable in order to protect the interests of the Village and assure that such property will be developed and maintained in accordance with, and will not be used in violation of, the purposes and provisions of this section. The Board of Trustees may also require, incident to any approval, a community benefit or similar agreement which documents certain aspects of the applicant's responsibilities with regards to the project.
  - (4) Approval of the site plan, subdivision plan and/or approvals on a proposed development shall expire two years after the applicable approval; within such period the applicant shall have filed for, received and is constructing pursuant to a building permit for such development. The Board of Trustees, upon written request of the applicant, may extend the above time period for two additional periods of not more than six months each.
  - (5) No building permit shall be issued and no commencement of use shall be permitted unless and until a site plan and all other permits and approvals shall have been issued by the Board of Trustees.
  - (6) Where a proposed TOD Overlay District development involves a subdivision or re-subdivision of land, no development may proceed unless and until the Board of Trustees has granted final subdivision plat approval, it being the intention of the Board of Trustees to retain the power to review and approve subdivision applications related to applications brought under this Article.
  - (7) In its discretion, the Board of Trustees may require Bonding. The Board of Trustees is authorized to impose a requirement for the posting of a bond or other security necessary to secure the completion of any public improvements that any applicant agrees to undertake in connection with an application filed under this Article. The Board of Trustees shall fix the nature, amount and terms of release of such security within the resolution approving a final application for inclusion in the TOD where any part of such application relates to the completion of a public improvement of land or infrastructure.
  - (8) Referrals. The Board of Trustees may, by resolution of the Board of Trustees, in its discretion, refer any application, or any aspects thereof, to a Village board or commission whose input may be deemed appropriate by the Board of Trustees for recommendation and/or decision.
- E. **Waiver.** The Board of Trustees may waive any submission it deems not necessary in order to evaluate an application. No failure on the part of the Village to exercise any right or power under this Article, or to insist upon strict compliance with the provisions of this Article, and no custom or practice of any party at variance with the terms and conditions of this Article, shall constitute a waiver of the Village's right to demand exact and strict compliance with the terms and conditions of this Article.



F. **Statutory authority and supersession.** This section, and any local law adopted pursuant to this Article, shall be deemed to have been adopted pursuant to the provisions of Municipal Home Rule Law § 10(1)(ii)(a)(14) and the Statute of Local Governments, §§ 10(6) and 10(7), and this section shall supersede any provision of Article 7 of the New York Village Law and, specifically, §§ 7-718 and 7-725-a thereof, that are inconsistent with the provisions of this section.

**§ 12. Severability**

If any provision of this section shall be annulled or held unenforceable by a court of competent jurisdiction, the provision affected by such order or judgment shall be severed and such order or judgment shall not affect the continued application and enforceability of the remaining provisions of this section.

**Schedule of Bulk and Dimensional Regulations**

	<b>TOD Overlay - Business Subdistrict</b>	<b>TOD Overlay - Waterfront Subdistrict</b>
Minimum Lot Size	None	2 acres
Maximum Building Coverage	80%	30%
Maximum Building Height Without Surface Parking Below	3 stories and 45 feet	3 stories and 40 feet
Maximum Building Height With Surface Parking Below	4 stories and 50 feet	4 stories and 50 feet
Minimum Front Yard	10 feet	25 feet
Minimum Side Yard(s) (1)	0 feet	20 feet each side yard
Minimum Rear Yard	10 feet	25 feet

Notes:

- (1) If there is more than one principal building on a lot, the minimum side yard shall be calculated to the property line, and the minimum distance between buildings shall be 10 feet.

**Be it enacted by the BOARD OF TRUSTREES of the**

**County            City            Town            x Village**

*(Select One)*

**Of Island Park as follows:**

**This local law shall take effect immediately upon filing with the Secretary of State.**