

**INCORPORATED VILLAGE OF LINDENHURST**  
**NOTICE OF PUBLIC HEARING**

**NOTICE IS HEREBY GIVEN** that a public hearing will be held at the Lindenhurst Village Hall, 430 South Wellwood Avenue, Lindenhurst, New York on the 6<sup>th</sup> day of December 2016 at 7:00 p.m. or as soon thereafter as can be heard, on the question of the enactment of Local Law #4-2016, amending the Code of the Village of Lindenhurst as follows:

Local Law #4-2016

Chapter 193

Zoning

Proposed enactment of creating a Downtown Redevelopment District (“DRD”) Floating Zone in the Village of Lindenhurst. The full text of this local law is on file at the Village Hall.

Dated: November 16, 2016  
Lindenhurst, NY 11757

Inc. Village of Lindenhurst  
Shawn Cullinane, MMC  
Clerk-Treasurer

# INCORPORATED VILLAGE OF LINDENHURST

## Proposed Local Law #4-2016

### Chapter 193

#### Zoning

#### **ADD:**

#### **Article XXIV: DRD (Downtown Redevelopment District).**

#### **§193-264 Purpose.**

(1) As set forth in the March, 2000 report of the Suffolk County Planning Commission entitled “Smart Communities through Smart Growth/Applying Smart Growth Principles to Suffolk County Towns and Villages” (hereinafter the “County Smart Growth Report”), principles of “Smart Growth” include encouraging mixed land uses and mixed-use buildings, taking advantage of compact building sizes and creating a range of housing opportunities, providing a variety of transportation choices, and creating pleasant environments and attractive communities.

(2) With respect to encouraging mixed land uses and mixed-use buildings, the County Smart Growth Report provides:

“This activity will help create the density of development that is needed to sustain a healthy community. By mixing compatible uses, a walking community is created. By having stores on the first floor and residential uses on the second or third, the base population is within walking distance of these uses...By providing many differing services in any given area, local synergy is created and the need for people to drive to that area for any particular services or stores is diminished. This will help reduce the use of the automobile. . .The concentration of

uses in a tight knit area lends itself to leaving the car in one place. . . The alternative is to drive everywhere because of the separation of land uses that have been zoned, compartmentalized and spread out, each in its own location unrelated to the other.”

- (3) With respect to taking advantage of compact building sizes and creating a range of housing opportunities, the County Smart Growth Report provides:

“This action refers to allowing densities that are associated with traditional compact downtowns to be applied to residential and commercial development that occurs from new growth. A framework provided through local zoning codes can allow higher densities which use land more wisely. Higher densities would be allowed in areas located within the existing infrastructure enabling residents to walk to shopping, personal services, community centers and transportation facilities. . .”;

- (4) With respect to providing a variety of transportation choices, the County Smart Growth Report provides:

“Suffolk County is home to one of the nations most heavily used commuter railroads. . .Transportation options might relieve Suffolk County’s roads of some automobile congestion. . .”

- (5) The County Smart Growth Report further provides:

***“Housing in or near Central Business Districts***

A significant aspect of Smart Growth recommends housing be located within walking distance or in the central part of a town for easy access to services, business, community and municipal facilities. . .”

- (6) Applying the foregoing principles, the Village of Lindenhurst Board of Trustees (the “Board of Trustees”) finds:

- (A) It is desirable to encourage pleasant and attractive residential development and redevelopment on suitable sites within walking distance of (i) the Long Island Railroad station

in the Village, and (ii) the central business district of the Village;

(B) It is also desirable to allow such residential development/redevelopment to be mixed with appropriate non-residential uses; and

(C) To facilitate such residential and mixed-use development and redevelopment, it is appropriate to establish a “Downtown Redevelopment District (DRD),” allowing for such uses, as a floating zone, subject to approval by the Board of Trustees in each case and in accordance with an approved conceptual development plan, as described and defined herein.

**§193-265 Application Procedure.** The procedure for zone change and development approval of any proposed DRD (or the extension or expansion of an existing DRD) shall involve a two-stage review process, as follows:

- (1) Approval of a conceptual development plan and the reclassification of a specific parcel or parcels of land for development in accordance with that plan by the Board of Trustees; and
- (2) Approval of a detailed site development plan, and a subdivision plat, if applicable, by the Board of Trustees.

**§193-266 Application to the Board of Trustees for Zone Change Approval.**

Application for establishment, extension, or expansion of a DRD shall be made by submitting ten (10) copies of the application to the Board of Trustees. The application shall include, at a minimum, the following:

- (1) The names and addresses of the property owner(s), the applicant(s), if other than the owner(s), and the planner(s), engineer(s), architect(s), surveyor(s), attorney(s), and/or other professional(s) 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) A written statement describing the nature of the proposed project, how it is designed to serve the purposes of this Article, the site's relationship to immediately adjoining properties and the surrounding neighborhood, the availability and adequacy of community facilities and utilities to serve the site, and the safety and capacity of the public roadways in the area of the site in relation to the anticipated traffic generation from the site.
- (4) A written statement of the proposed method of ownership and maintenance of all common utilities, common facilities, and areas of open space within the proposed development.
- (5) A conceptual development plan for the proposed project, drawn to an appropriate scale, and including the following:
  - (a) The area of the project site, in both acres and square feet;
  - (b) A site location sketch indicating the location of the project site with respect to neighboring streets and properties, the names of all owners of property within 200 feet of the site, the existing

zoning of the site, and the location of all zoning district boundaries in the surrounding neighborhood; and

(c) A conceptual development plan, indicating the approximate location and conceptual design of all buildings, the arrangement of parking areas and access drives, the general nature and location of other proposed site improvements, the location of any proposed open space areas, the lot configuration, if applicable, and any proposed phasing of development.

- (6) An application fee, which shall be established from time to time by resolution of the Board of Trustees.
- (7) To the extent that the proposed establishment, extension, or expansion of a DRD, or the development proposed thereunder, has not been previously reviewed pursuant to the New York State Environmental Quality Review Act (“SEQRA” -- Article 8 of the Environmental Conservation Law) and the SEQRA implementing regulations at 6 NYCRR Part 617, a Full Environmental Assessment Form or draft environmental impact statement, as provided by such SEQRA implementing regulations.
- (8) Such other information as may be determined necessary by the Board of Trustees in order to properly enable it to review and decide upon the application.

**§193-267 Procedure for Zone Change Approval.**

- (1) 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 for zone change approval pursuant to this Article will not be entertained.
- (2) If the Board of Trustees determines to entertain an application for zone change approval pursuant to this Article, the Board of Trustees shall schedule and hold a public hearing on the application pursuant to the notice and procedural requirements for adoption of local laws, as set forth in the New York State Municipal Home Rule Law.

**§193-268 Criteria for Zone Change Approval and Development.** In determining whether to grant an application for establishment, extension, or expansion of a DRD, the Board of Trustees, in addition to exercising its usual discretion in considering a change of zone, shall also determine that the application complies with all the following requirements:

- (1) Location. A DRD may be established, extended, or expanded within an area that (a) is proximate to (i.e., within walking distance of) the Long Island Railroad station and the Village's central business district, and (b) is, in the opinion of the Board of Trustees, suitable for higher density residential or mixed commercial/residential development. Any area proposed for expansion or extension of a DRD shall be located within the area set forth above and shall adjoin (i.e., be located either adjacent to or across the street from) an existing DRD.

- (2) Minimum Site Size. The minimum land area required for the establishment of a DRD shall be six (6) acres, except that there is no minimum land area required for the addition of lands to an existing DRD where such addition is being proposed by the developer of the existing DRD, or by an affiliate under common ownership or control with such developer. In any event, however, any site proposed for establishment of a DRD shall be of such shape, dimension, topography, and location as will allow for an appropriate and attractive development, and, in reviewing any proposed addition to a DRD, the Board of Trustees may consider the compatibility of development proposed in the additional area to the development in the existing DRD.
- (3) Ownership. The site of a proposed DRD, or proposed extension or expansion to an existing DRD, may include any number of separate parcels and may be owned by one or more persons or entities, but shall be presented as a single parcel of land in any application made pursuant to this Article. Such application shall be jointly filed by all owners and, if approved, shall be binding upon all of them and shall be developed in accordance with any approvals granted as part of the final site development approval.
- (4) Permitted Uses. The conceptual development plan shall provide for attached or detached residential uses, including any combination of rental or ownership units, as well as accessory parking facilities. The conceptual development plan may also provide, where appropriate, for

retail, office, and other uses deemed by the Board of Trustees to be appropriate and compatible with the proposed DRD development.

- (5) Height. The maximum height (not including chimneys; spires; cupolas; antennas; stairway/elevator penthouses or bulkheads; tanks; mechanical equipment; trellises; parapet walls; similar ornamental, architectural, or mechanical features; and safety railings, fences, and walls) of any building or structure in a DRD shall not exceed 55 feet.
- (6) Maximum Density. The number of residential units in a DRD shall not exceed 260.
- (7) Maximum Occupancy. The maximum occupancy of any residential unit in a DRD (exclusive of children under 18 years of age) shall not exceed the number of bedrooms in the unit plus one.
- (8) Parking. Notwithstanding the provisions of Article XIX of this Code, parking facilities (inclusive of “landbanked” spaces and on-street parking spaces along the frontages of the DRD), whether public or private, shall be provided in the following amounts for each of the uses in a proposed DRD:
  - (a) Retail and office uses: the greater of : (i) one (1) public space per 250 square feet of floor area devoted to such use, or (ii) the number of public parking spaces in existence, as of the date of the zone change, on the property proposed to be established as a DRD or to be added to an existing DRD;
  - (b) Multi-family residential uses: 1.45 spaces per unit;

(c) All other uses: as determined by the Board of Trustees at the time of site development approval.

**§193-269 Zoning Approval by the Board of Trustees.**

- (1) The Board of Trustees may approve or approve with modifications the conceptual development plan, as well as the establishment of a proposed DRD by local law granting a zone change so as to locate or place the property shown in such conceptual development plan in a DRD. Approval of the conceptual development plan or approval with modifications is required for, and shall be deemed to authorize, the applicant(s) to proceed with the detailed design of the proposed development in accordance with such conceptual development plan and the subsequent procedures and requirements of this Article. Copies of the said local law shall be forwarded to the Planning Board and the applicant(s).
- (2) The Board of Trustees may require, incident to granting a DRD zone change, that the applicant(s) submit a declaration, to be recorded in the Office of the Suffolk County Clerk, imposing such covenants and restrictions on the property included in such DRD as the Board of Trustees may reasonably deem necessary or desirable to protect the neighborhood and assure that such property will be developed in accordance with, and will not be used in violation of, the purposes and provisions of this Article.

- (3) Any local law establishing a DRD may establish dimensional regulations applicable to development of the property included in such DRD, and may also establish other conditions and requirements applicable to the use and development of such property. Such dimensional regulations, conditions, and requirements shall supersede any and all dimensional regulations, conditions, and requirements set forth elsewhere in this Code.
- (4) Use and development of property classified in a DRD shall comply with the dimensional regulations and other conditions and requirements established by the Board of Trustees in the local law granting such zone change.
- (5) Except as provided below, approval of the establishment of a DRD shall expire five (5) years (or seven [7] years where a phased development plan is approved) after the effective date of such local law if the applicant has not, within such period, applied for and received site development approval and, if applicable, final subdivision plat approval for at least the first section of the subdivision plat. The Board of Trustees, upon request of the applicant, may extend the above five- or seven-year time period for two additional periods of not more than one year each. Notwithstanding the foregoing, the Board of Trustees may extend any of the said expiration periods upon application of any owner of the premises affected by the DRD, made prior to expiration of the prior period. In the event of expiration of DRD approval, the DRD

classification shall automatically be removed from the subject property, and such property shall revert to the zoning classification of such property that existed prior to the establishment of the DRD for such property. The Village Clerk shall amend the official copy of the Zoning Map accordingly.

- (6) The Board of Trustees may also, by local law, amend or modify any previously-approved DRD conceptual development plan to change, for example, the locations or sizes of proposed uses, the number or type of residential units, the location or size of vehicular or pedestrian travel or accessways, the location or size of parking areas, and proposed development phasing.

**§193-270 Site Development Approval by the Board of Trustees.**

- (1) Before a building permit is issued or a use is commenced or changed on property located in a DRD, a site development plan showing the layout, arrangement, and design of the proposed use shall be submitted to the Board of Trustees, and approved or approved with modifications by the Board of Trustees. Site development plan review shall be conducted in accordance with the procedures set forth in Article XVI of this Code, and every reference in such Article to the Planning Board shall, for purposes of the site development plan review and approval to be conducted under this Article, be deemed to refer to the Board of Trustees.

- (2) The site development plan shall show and include the following elements:
- (a) The proposed location, use, dimensions, and architectural design and features of all buildings and structures, including, among other elements, the exterior building material, color, roofline, and building elevations, and lot coverage data;
  - (b) The location and dimensions of proposed parking and truck loading areas, including access and egress thereto, with proposed grades;
  - (c) The location of outdoor storage, if any;
  - (d) A description of the method of sewage disposal and location of all facilities and structures;
  - (e) The location, size, and design of all signs;
  - (f) The location and nature of screening, landscaping, and buffer areas; and
  - (g) The location, design, and proposed hours of operation of all lighting structures.
- (3) No building permit shall be issued and no commencement or change of use shall be permitted unless and until a site development plan shall have been approved by the Board of Trustees.
- (4) Where a proposed DRD development also 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 in

accordance with the Village Law and any applicable Village regulations.

- (5) The Board of Trustees may impose such requirements for bonding the approved off-site development, construction, and improvements as it deems necessary and appropriate, and also to condition the release of such bond or portions thereof on the approval, acceptance, or dedication of all or any portion of the work that has been bonded.

**§193-271 Referrals.** The Board of Trustees may, in its discretion, refer any application, pursuant to this Article, for approval of a conceptual development plan, reclassification of a specific parcel or parcels of land for development in accordance with that plan, site development plan review, and/or subdivision or re-subdivision approval to the Planning Board for its review and/or recommendation.

**§193-272 Severability.** Should any Court of competent jurisdiction determine that any clause, sentence, paragraph, word, section, or part of this Article, or the application of same to any building, structure, land, or owner, is unconstitutional, illegal, or invalid, such determination shall not affect, impair, or invalidate the remainder of this Article, which shall be separately and fully effective, or the applicability of this Article to any other building, structure, land, or owner.

**§193-273 Statutory Authority and Supersession.** This local law, 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 Statute of Local Governments §10(6) and (7). Pursuant to Municipal Home Rule Law §10(1)(ii)(e)(3), the Village hereby supersedes any provisions of Article 7 of the

Village Law that are inconsistent with the provisions of this Article. Moreover, the provisions of this Article supersede any inconsistent provisions of the Village Code.

**Validity.**

If any section, sentence, clause or phrase of this law is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of the law.

**Effective Date.**

This law shall become effective upon filing in the office of the Secretary of State.