

## **Appendix O**

*Local Law Filing*

**(Use this form to file a local law with the Secretary of State.)**

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City

of **The Incorporated Village of Patchogue**

Town

Village

Local Law No. 3 of the year 2008.

**A LOCAL LAW OF THE VILLAGE OF PATCHOGUE**

Amending Chapter 93 of the Village Code to provide a new subdivision "16.5" which shall read as follows:

**§ 93-16.5 DRD (Downtown Redevelopment District).**

**A. Purpose.**

- (1) In November 2002, the Suffolk County Department of Planning released a "Village of Patchogue Downtown Business District Study" (the "District Study"), which had been prepared at the request of the Village and is hereby considered by the Village.
- (2) Among other things, the District Study recognized that there were portions of the Village's downtown that could benefit from redevelopment improvements, including the area along North Ocean Avenue and West Main Street.
- (3) In 2007, the Village commissioned a blight study of the area of North Ocean Avenue and West Main Street to determine whether buildings within such area were contributing to a blighted condition of that area, which study determined that certain buildings are in a blighted condition and depress the economy and value of such area, and, by inference, supports many of the conclusions provided in the District Study.
- (4) Among the recommendations made in the District Study was that the Village should pursue and implement a strategy for the growth and revitalization of the downtown business district that will, among other things:
  - (a) continue the revitalization of the downtown district;
  - (b) encourage retail and destination uses in the downtown core;
  - (c) encourage development of residential units within walking distance of the downtown;
  - (d) improve the economic base of the Village by creating jobs and expanding the tax base; and
  - (e) encourage the business district to become a cleaner, safer, more appealing,

and interesting place to live, walk, work, eat, shop, and do business.

- (5) Other specific recommendations in the District Study regarding revitalization of the Village's downtown were that:
  - (a) the Village's existing zoning code be amended to encourage mixed-use development, with an emphasis on retail uses on the first floor;
  - (b) lots be permitted to be assembled, in certain cases, to allow for better planned commercial or mixed uses;
  - (c) the Village consider "Smart Growth" principles in redevelopment;
  - (d) redevelopment or new commercial development in the core of the business district include ground-floor retail, with office or residential uses above;
  - (e) in-fill development be encouraged, to close the gaps in the core of the business district;
  - (f) the buildings on the north side of Main Street and west side of North Ocean Avenue be refurbished or razed and rebuilt, and the first floor of any new buildings on such sites contain retail and services businesses; and
  - (g) the aforesaid building sites be possibly redeveloped with a hotel, which would be within walking distance of the Patchogue Theatre and the downtown area, and would also be accessible to the marinas and ferries of the Patchogue River.
- (6) The Village further recognizes that there is a demonstrated need and/or desire for workforce housing units, apartments, condominiums, offices, and other business uses in the downtown area of the Village.
- (7) To implement the recommendations of the aforesaid Suffolk County Department of Planning Study, and also to address, in part, the need for workforce housing units, offices, and other business uses in the Village, this Downtown Redevelopment District (DRD) is established, as a floating zone, subject to approval by the Village Board of Trustees in each case and in accordance with an approved preliminary development concept plan, as described and defined herein.

**B. 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 preliminary development concept 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 final detailed site development plan, and a subdivision plat, if applicable, by the Board of Trustees.

**C. 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, 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) A written statement describing the nature of the proposed project, how it is designed to serve the purposes of this section, 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 written statement of the method that will be used to ensure compliance with the workforce housing and eligibility requirements of this section.
- (6) A preliminary development concept plan for the proposed project, drawn to a convenient 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 preliminary site development plan, indicating the approximate location and design of all buildings, the arrangement of parking areas and access drives, the general nature and location of other proposed site improvements, and the lot configuration if applicable.
- (7) An application fee, which shall be established from time to time by resolution of the Board of Trustees.
- (8) A Long Environmental Assessment Form, as required by 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.
- (9) 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. 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 section will not be entertained.
- (2) If the Board of Trustees determines to entertain an application for zone change approval pursuant to this section, the Board of Trustees shall schedule and hold a public hearing on the application pursuant to the same notice and procedural requirements that are generally prescribed by law for Village zoning amendments.
- (3) The requirements of SEQRA and its implementing regulations shall be complied with for any application pursuant to this section.

**E. 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 their 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 the area bounded on the north by Lake Street, on the east by North Ocean Avenue, on the south by Main Street, and on the west by West Avenue. 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 1.75 acres (inclusive of any municipally-owned lands that may be included within the preliminary or final development plan), 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 the common ownership or control of 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.
- (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 section. 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 preliminary development concept plan shall provide for a mix of uses, including, at a minimum, residential and retail uses, and shall incorporate, to the extent practical, retail uses on the ground floor of buildings and structures fronting on Main Street. Other uses allowable in a DRD shall include offices, hotels, restaurants, catering facilities, and all other principal and accessory uses permitted in the zoning districts in which the lands included in a DRD were classified prior to their designation as a DRD.
- (5) **Height.** The maximum height of any building or structure in a DRD shall not exceed:
  - (a) 130 feet, for any building or structure that is located within 120 feet of West Main Street and within 100 feet of North Ocean Avenue, provided such building includes a hotel with a catering facility or restaurant;
  - (b) 110 feet, for any other building or structure that is located within 120 feet of West Main Street or within 100 feet of North Ocean Avenue, and;
  - (c) 60 feet, for any building or structure that is located more than 120 feet from West Main Street and more than 100 feet from North Ocean Avenue.
- (6) **Required Workforce Housing.** A minimum of 25% of the residential units proposed in any DRD shall constitute “workforce housing units.”  
For purposes of this section, “workforce housing units” shall be defined as housing

units that are affordable by those earning at or less than 120% of the Nassau-Suffolk median income, by household size, as established by the United States Department of Housing and Urban Development. The applicant(s) shall submit to the Board of Trustees the size and design of the proposed workforce housing units, as well as the proposed gross sale price of those units, in sufficient detail for the Board of Trustees to evaluate the value of such units.

- (7) Eligibility. Initial and continued priority for the sale, occupancy, or rental of workforce housing units shall be in the following order:
  - (a) Persons residing in the Village of Patchogue;
  - (b) Persons employed, at the time of application, within the Village of Patchogue, and;
  - (c) All others.
- (8) Parking. Notwithstanding the provisions of § 93-17 of the Village Code, parking facilities, 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, 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: one (1) space per unit;
  - (c) Hotel uses: one (1) space per two (2) guest rooms;
  - (d) All other uses: as determined by the Board of Trustees at the time of site development approval.

**F. Zoning Approval by the Board of Trustees.**

- (1) The Board of Trustees may approve or approve with modifications the preliminary development concept 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 development concept plan in a DRD. Approval of the preliminary development concept 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 concept plan and the subsequent procedures and requirements of this section. Copies of the said local law shall be forwarded to the Planning Board, the Board of Historic Preservation and Architectural Review, 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 deem necessary or desirable in order 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 section.
- (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) Approval of the establishment of a DRD shall expire three (3) years after the effective date of such local law if the applicant has not, within such period, applied for and received site development plan 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 time period for two additional periods of not more than one year each. In any case where a phased development plan is approved, the DRD shall expire five (5) years after the effective date of such local law. Notwithstanding the foregoing, the Board of Trustees may extend any of the said expiration periods upon application of any owner made prior to the expiration of such period for the property affected by the DRD. 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 zone classification(s) existing prior to the establishment of the DRD for such property. The Village Clerk shall amend the official copy of the Zoning Map accordingly.

**G. 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, who shall review and either approve, approve with modifications, or disapprove the site development plan. Site development plan review shall be conducted in accordance with the procedures set forth in Article XIII 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 Subsection "G," be deemed to refer to the Board of Trustees. Subsection "H" of § 93-68 of the Code shall not apply to applications pursuant to this § 93-16.5.
- (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 have granted final subdivision plat approval in accordance with the Village Law and any applicable Village Code provisions or other regulations.
  - (5) Bonding: The Board of Trustees are authorized to impose such requirements for bonding the approved development, construction, and improvements as they deem 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.

**H. Referrals.** The Board of Trustees may, in their discretion, refer any application, pursuant to this § 93-16.5, for approval of a preliminary development concept 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 and/or the Board of Historic Preservation and Architectural Review for their review and/or recommendation.

**I. Severability.** Should any Court of competent jurisdiction determine that any clause, sentence, paragraph, word, section, or part of this section, 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 section, which shall be separately and fully effective, or the applicability of this section to any other building, structure, land, or owner.

**J. Statutory Authority and Supersession.** This local law, and any local law adopted pursuant to this § 93-16.5, 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 local law shall supersede any provision of Article 7 of the New York Village Law and, in specific, §§ 7-718 and 7-725-a thereof, that are inconsistent with the provisions of this local law.

Effective Date:

This Local Law shall take effect immediately.

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**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as Local Law No. 3 of 2008 of the Incorporated Village of Patchogue was duly passed by the Village Board on APRIL 21, 2007 in accordance with applicable provisions of law.

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**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer.)\***

I hereby certify that the local law annexed hereto, designated as Local Law No. \_\_\_\_\_ of 2008 of the Incorporated Village of Patchogue was duly passed by the Village Board on \_\_\_\_\_, 2007, and was (approved)(not approved)(repassed after disapproval) by the Mayor of the Incorporated Village of Patchogue, and was deemed duly adopted on \_\_\_\_\_, 2008, in accordance with applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as Local Law No. \_\_\_\_\_ of 2008 of the Incorporated Village of Patchogue was duly passed by the Village Board on \_\_\_\_\_, 2008, and was (approved)(not approved)(repassed after disapproval) by the Village Board of the Incorporated Village of Patchogue, Mayor of the Incorporated Village of Patchogue, on \_\_\_\_\_, 2008. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_, 2008, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as Local Law No. \_\_\_\_\_ of 2008 of the Incorporated Village of Patchogue was duly passed by the Village Board on \_\_\_\_\_, 2008, and was (approved)(not approved)(repassed after disapproval) by the Village Board of the Incorporated Village of Patchogue, Mayor of the Incorporated Village of Patchogue, on \_\_\_\_\_, 2008. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, 2008, in accordance with the applicable provisions of law.

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\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

