

LOCAL LAW ___ OF 2019

AMENDING THE IRVINGTON ZONING CODE
TO CREATE THE NORTH BROADWAY MIXED-USE DISTRICT
(September 17, 2019)

Be it enacted by the Board of Trustees of the Village of Irvington that the Zoning Code is amended as follows:

Section 1: Section 224-3 (Definitions) is hereby amended to add the following definitions:

ASSISTED LIVING UNIT – A unit in a Senior Living Facility specifically designed for use and occupancy by individuals in need of some medical care and/or professional assistance with performing typical activities of daily living.

BOUTIQUE HOTEL – A small luxury hotel not less than ten and not more than fifty rooms, offering enhanced level of services with unique accommodations.

COMMUNITY AMENITIES – Customary accessory residential amenities intended for use by residents of the development, including but not limited to playscapes, gardens, walking trails, outdoor exercise equipment, swimming pools, and sport courts.

FULL CARE LIVING UNIT – A unit in a Senior Living Facility for residents in need of 24-hour professional care including, but not limited to, skilled nursing and hospice services.

INDEPENDENT LIVING UNIT – Handicapped-adaptable dwelling unit in a Senior Living Facility with a kitchen and bathroom where the following services are provided to residents within the dwelling unit or in common facilities on the site: dining, laundry, security and housekeeping.

MEDICAL OFFICE, SMALL PRACTICE – Office of medical professionals licensed to practice under the Education Law of the State of New York occupying a maximum of 5,000 square feet and having a staff of not more than four employees, including all licensed medical professionals, on the premises at any given time.

MEDICAL OFFICE, LARGE PRACTICE – Office of a group of medical professionals licensed to practice under the Education Law of the State of New York occupying more than 5,000 square feet and having a staff of more

than four employees, including all licensed medical professionals, on the premises at any given time.

SENIOR LIVING FACILITY – A residential facility containing Independent Living, Assisted Living, and Full Care Living Units for persons 62 years of age or older.

Section 2: Section 224-4 (Districts Enumerated) is hereby amended to add the following district:

North Broadway Mixed-Use District

NBMD

Section 3: A new Article XIB is hereby added to Chapter 224, Zoning, to provide as follows:

ARTICLE XIB
North Broadway Mixed-Use District NBMD

§ 224-47.7. Purpose.

The purpose of the North Broadway Mixed-Use District is to ensure that any future development of the large lots on the east side of Broadway north of Strawberry Lane and south of the MF District maintains the scenic character of Broadway, a prominent gateway to the Village, and reflects the current and historic uses of these properties. The North Broadway Mixed-Use District permits a mix of residential, commercial, and institutional uses in a manner that maintains the character of the large properties with deep setbacks and open landscapes.

§ 224-47.8. Permitted uses; use regulations.

No building or premises shall be used, and no building or part of a building shall be erected which is arranged, intended or designed to be used, in whole or in part, for any purpose except the following uses, all subject to the issuance of a special permit by the Planning Board in accordance with the provisions of this article, as well as §§ 224-8E through 224-8F of this chapter:

- A. Conversion to three-or-more-family dwellings. An existing structure may be converted to residential apartments. Units shall be a minimum of 675 square feet and entirely within existing structures.
- B. Attached one-family and three-or-more-family dwellings subject to the

following conditions:

- (1) The total number of units shall be determined based on a site capacity analysis pursuant to Article XV, Resource Protection and Chapter 188, Subdivision of Land.
 - (2) No building shall exceed a length of 180 feet, nor shall any building accommodate more than 15 dwelling units.
- C. Senior living facilities, subject to the following conditions:
- (1) Minimum lot size. The minimum size of the lot on which a senior living facility may be established is 4 acres.
 - (2) The combined number of beds shall not exceed 150.
- D. Boutique hotels, subject to the following conditions:
- (1) Minimum lot size. The minimum size of the lot on which a boutique hotel may be established is 4 acres.
 - (2) Access and egress to the property must be directly from Broadway.
 - (3) The total number of rooms shall not exceed 50.
 - (4) The maximum length of stay for any guest shall be 15 nights.
 - (5) Cooking facilities, other than an electric coffee pot, microwave, and mini-refrigerator, are not permitted in guest rooms.
 - (6) Customary accessory hotel facilities such as a swimming pool, fitness room, business lounge, and breakfast room for exclusive use by the hotel guests are permitted.
- E. Offices.
- F. Research and design.
- G. Small practice medical offices.
- H. Conference centers.
- I. Full service restaurants, excluding formula/fast-food establishments.

- J. Places of worship including parish houses and religious school buildings, schools, public libraries, museums, art galleries or community center buildings.
- K. Annual membership clubs, incorporated pursuant to the provisions of the Not-for-Profit Corporation Law, catering exclusively to members and their guests.
- L. On lots with direct access to Broadway, bed-and-breakfast establishments, in accordance with the provisions of § 224-8.D of this chapter.
- N. Accessory buildings, accessory uses, and community amenities customarily incidental to a special permit use.
- O. Accessory off-street parking facilities serving the permitted special permit use(s) on the lot.

§ 224-47.9. Bulk Regulations.

- A. Except as specified hereinafter, the lot area, width and depth requirements for the North Broadway Mixed-Use District shall not be less than as follows:

Minimum Lot Requirements

Area (square feet)	Width (feet)	Depth (feet)
80,000	250	200

- B. The lot width shall be measured as follows:
 - (1) For lots fronting on straight streets: along the street line, provided that the width of such lots along the building line shall be at least equal thereto.
 - (2) For lots fronting on the inside arc of curved streets: along the street line, provided that the width of such lots measured along the building line is not reduced below a radial projection of the lot frontage.
 - (3) For lots fronting on the outside arc of curved streets, including those fronting on the outside arc of vehicular turning circles at the end of dead-end streets: along the building line, provided

that the street frontage of such lots is not reduced below a radial projection of the width along the building line.

C. Yard requirements; projections.

- (1) Front, side and rear yards shall be required on each lot in accordance with the following regulations:

**Minimum Required Yards
(feet)**

Front	Side	Rear
75	50	50

NOTE: In the case of a corner or an irregular lot, the determination as to what constitutes a front, side, or rear yard shall be made by the Building Inspector.

- (2) Notwithstanding § 224-47.9.C(1), no buildings, community amenities, structures, or parking, or part thereof, shall be permitted nearer than 250 feet to the Broadway right-of-way. Where, however, the Board of Trustees, in its sole discretion, determines that construction closer to Broadway would serve an important public interest and would be consistent with the 2018 Comprehensive Plan Update, it may waive this 250 foot requirement.

D. Exceptions to yard requirements.

- (1) Cornices or cantilevered roofs may project not more than 2 ½ feet into a required yard. Belt courses, windowsills and other ornamental features may project not more than six inches into a required yard.
- (2) Other than such as are needed for access to the buildings on the lot, patios, paved terraces, steps and walks shall not project into a required yard.
- (3) The Planning Board may permit driveways to project into a required yard, provided that they shall not project within 15 feet of a side lot line or within 25 feet of a rear lot line.
- (4) Fences and walls. Except as provided in §§ 224-48 and 224-51, fences or walls not over 3 feet in height may be erected in the

front yard, and fences and walls not over 6 ½ feet in height may be located in the side and rear yard.

E. Coverage. Within the North Broadway Mixed-Use District the term “lot coverage” shall mean the sum of all impervious surfaces on the lot and the term “building coverage” shall mean the sum of all principal and accessory buildings on the lot.

(1) Building coverage shall not exceed 20% of the Net Buildable Site Area as defined in Article XV (Resource Protection).

(2) Lot coverage shall not exceed 30% of the Net Buildable Site Area, except that:

(a) The lot coverage associated with the adaptive reuse of any existing building determined by the Architectural Review Board to be of local historic significance shall not be included in the calculation of lot coverage, provided that in no event shall the total lot coverage exceed 35% inclusive of the lot coverage associated with such building of local historic significance.

(b) The lot area required for any necessary improvements of Strawberry Lane shall not be subtracted from the Net Buildable Site Area for purposes of determining building and lot coverage.

F. Height of buildings.

(1) No buildings or structures greater than 2-stories or 25 feet shall be permitted within 250 to 300 feet of the Broadway. Where, however, the Board of Trustees, in its sole discretion, determines that a third story or 35 foot building or structure within 250 to 300 feet from Broadway would serve an important public interest and would be consistent with the 2018 Comprehensive Plan Update, it may waive this limitation.

(2) The maximum height of any building or structure greater than 300 feet from the Broadway right-of-way shall be 3-stories or 35 feet.

G. FAR.

(1) The floor area ratio (FAR) shall not exceed 0.30

inclusive of all on-site buildings.

- (2) The FAR shall be calculated based on the gross site area.
- (3) Underground parking shall not be included in the calculation of FAR.
- (4) Parking decks shall not be included in the calculation of FAR. However, parking decks shall be included in the calculation of building coverage.
- (5) The FAR associated with the adaptive reuse of any existing building determined by the Architectural Review Board to be of local historic significance shall not be included in the calculation of FAR as prescribed in this section, provided that in no event shall the total FAR of all onsite structures exceed 0.40 inclusive of the FAR associated with such building of local historic significance.

§ 224-47.10. Design regulations.

- A. **Lighting.** Exterior lighting shall be limited to the minimum necessary for the safety and convenience of the users of the premises. All onsite lighting shall be of a residential character and scale. All lighting shall be dark-sky compliant. All lighting fixtures shall be full cut-off and shall utilize light shields as necessary to reduce light trespass and glare. Lighting shall be designed to the minimum level required for health and safety and shall not exceed 5 footcandles. Timers, motion sensors, and light sensors shall be used to reduce light usage to only the times necessary.
- B. **Landscaping and Screening.** A landscape plan shall be provided. Appropriate screening shall be provided between the proposed use and any adjacent uses. The Planning Board may require additional screening around parking, refuse, community amenity areas, and any other site conditions it deems necessary to protect and enhance the visual character of Broadway and the surrounding neighborhood.
- C. **New utility lines shall be underground.**
- D. **Access Driveways and Retaining Walls.** New development shall utilize existing curb cuts and driveways to the greatest extent

practicable. Retaining walls greater than 3 feet in height are prohibited within 125 feet of the Broadway right-of-way.

- E. The following design elements shall be considered:
- (1) Building facades shall be massed and scaled to present a varied appearance at street level, and shall be designed to give individual identity to each unit or section of units.
 - (2) The design shall consider the spacing and proportion of window and door openings, bays or other aspects of building fenestration, as well as colors, textures and the general nature of exterior materials and treatment, including building ornament and trim.
 - (3) New construction shall be of a design that complements the existing character of the neighborhood and community, and shall use materials that are compatible with the neighborhood and historic character of the Village.
 - (4) Blank wall exposures shall be limited.
 - (5) The design shall consider variation in roof heights, use of pitched roofs, and other roof elements such as cross gables and dormer windows to provide visual interest and to reduce the scale of the building.
 - (6) For existing buildings, any modifications for fire safety or access, such as fire escapes and elevator shafts shall be located on the side or rear of the building.
 - (7) For any building that the Architectural Review Board determines to be of local historical significance for purposes of § 224-47.9.G, the ARB must determine that any changes made to such building in achieving adaptive reuse do not compromise the local historical significance of the building.
- F. The Planning Board, during its site development review of a proposed erection or exterior alteration of a building or structure in the North Broadway Mixed-Use District, shall refer the application to the Board of Architectural Review for comments prior to issuance of decision to approve or deny an application. This referral shall not limit any other powers granted to the Board of Architectural Review under the Village Code.

§ 224-47.11. Parking.

- A. On-site parking spaces shall be provided as follows:
- (1) 1.5 spaces per dwelling unit for attached one-family and three-or-more-family units.
 - (2) One space per 100 square feet of Small Practice Medical Office space.
 - (3) One space per 250 square feet of office space.
 - (4) For all other uses, the applicant shall provide a parking demand study based on the Urban Land Institute Shared Parking Methodology, Institute of Transportation Engineers, or American Planning Association recommended parking ratios, or existing conditions data from similar operations in the Hudson Valley Region. The Planning Board shall determine the required number of parking spaces based on this analysis.
- B. Notwithstanding the provision of § 224-55, parking decks are permitted to be constructed provided that they are fully shielded from view from all public rights-of-way and neighboring property lines. Any parking deck shall be fully screened by a liner building or topography. Landscaping alone shall be deemed insufficient for screening purposes.

§ 224-47.12. Additional requirements for special permits. In addition to §§ 224-8E through 224-8F of this chapter:

- A. The Planning Board shall require that no special permit be issued until the Planning Board is satisfied that the proposed use:
- (1) Will not have a significant visual impact on the character of Broadway, including, but not limited to, the following:
 - (a) Existing stone walls shall be maintained to the greatest extent practicable;
 - (b) Existing buildings that reflect the historic character of the Village of Irvington shall be maintained or adaptively reused to the greatest extent practicable.
 - (2) Will not generate noise or create other disturbance that would

be detrimental to nearby residents.

(3) Will not result in an unmitigated significant adverse traffic impact at any of the intersections identified by the Planning Board.

(a) The following shall be deemed a significant adverse traffic impact:

(i) A degradation in level of service (LOS) for a lane in the No Action condition to LOS E or F in the With Action condition, as defined by the Institute of Transportation Engineers.

(ii) An increase of greater than 10% in delay for a lane group from the No Action to With Action condition if the lane group operates at LOS F in the No Action condition.

(iii) An increase in the 95th percentile queue length to exceed the provided storage length.

(b) The Planning Board may issue a special permit if mitigation measures are incorporated that reduce the traffic impacts to below the thresholds established above.

B. No special permit may be issued for a use using Strawberry Lane for access or egress unless the applicant makes whatever improvements are necessary to ensure and maintain safe passage over Strawberry Lane.

C. Conflicting standards. If there is any conflict between this Article and any other provision of this Chapter, this Article controls.

Section 4: Chapter 224, Article XII Supplementary Regulations, § 224-54.1, subsection A, is hereby amended to read as follows (new language in *italics*):

§ 224-54.1 Change of occupancy or use in Business, *North Broadway Mixed-Use, Waterfront and Railroad Districts.*

A. Necessity of change of occupancy or use certification. No existing building and/or land shall be converted to a different occupancy or use without first securing a change of occupancy or use certification. This

section shall apply to changes of occupancy or use for all properties in the Business, *North Broadway Mixed-Use*, Waterfront and Railroad Districts. Said certification shall be duly issued upon application to the Building Inspector and upon payment of the required fee as set from time to time by the Board of Trustees. No change of occupancy or use certification shall be issued unless the proposed occupancy or use is in full conformity with all provisions of this chapter and all other applicable regulations. Any such occupancy or use carried on in violation of the provisions of this chapter shall be null and void and of no effect without the necessity for any proceedings for revocation or nullification thereof, and any occupancy undertaken or use established without certification shall be unlawful.

Section 5: Chapter 224, Article XIV Site Development Plan Approval, Section 224-66 (Approval Required) is hereby amended to read as follows (new language in *italics*):

Site development plan approval by the Planning Board shall be required for:

- A. The erection of any building.
 - (1) The erection of any building, as defined in § 224-3, including on any lot which has received limited site development plan approval, except for:
 - (a) A fence or retaining wall projecting above the ground not more than three feet at the higher ground level and not more than 6 ½ feet at the lower ground level, except that site development plan approval shall not be required for a deer exclusion fence meeting the requirements of § 224-11B(6) or § 224-19B(4).
 - (b) An air-conditioning unit or generator, provided such equipment fits within the setback, height, and coverage requirements of this chapter.
 - (c) Signs and awnings regulated by Article XXIX of this chapter.
 - (2) Unless Subsection A(1)(a), (b) or (c) are being done in connection with a site development plan application for other construction, in which case the item shall be reviewed as part of the site development plan application.

- B. Any proposal involving the tear-down of an existing building or structure.
- C. All subdivisions, which would result in the existence of any additional lots.
- D. The alteration of any building in any manner which would result in an increase in FAR as described in Article XXII of this chapter, or in an increase in the cubic area of the space enclosed by the roof and exterior elevations of such building or in the enlargement or relocation of all or any part of an unenclosed structure, including but not limited to a deck or porch, affixed to the exterior of any building, or in the addition of any such unenclosed structure.
- E. The alteration of any building in such a way as to create an additional dwelling unit.
- F. *Any change of use that would, by virtue of the new use, result in any increase in the generation of traffic or parking demand.*

Section 6: Chapter 224, Article XV Resource Protection, Section 224-80 (Definitions) is hereby amended, in part, as follows (deleted language ~~stricken~~; new language in *italics*):

DENSITY FACTOR – An intensity measure expressed in terms of a number of square feet. The density factors for each ~~residence~~ district ~~and the Business District~~ are as follows:

District	Density Factor (square feet)
1F-80	80,000
1F-60	60,000
1F-40	40,000
1F-20	20,000
1F-10	10,000
1F-5	5,000
MF	5,000
2F	5,000
<i>NBMD</i>	<i>5,000</i>
B	2,500

SITE CAPACITY – The product of a calculation made in accordance with this article. "Site capacity" is expressed in dwelling units in all residence districts and in terms of dwelling units and floor area in the Business District

and North Broadway Mixed-Use District.

Section 7: The following new section is hereby added to Chapter 224, Article XV Resource Protection, to read as follows:

§ 224-85.1. Determination of site capacity in North Broadway Mixed-Use District.

- A. *For attached one-family and three-or-more family uses, the site capacity in the North Broadway Mixed-Use District shall be the Net Buildable Site Area divided by the density factor of 5,000 square feet, rounded down to the next lower whole number.*
- B. *For all other special permit uses, the site capacity in the North Broadway Mixed-Use District shall be the gross site area in square feet multiplied by the maximum FAR of 0.30 and rounded to the nearest whole number. The resulting number would be the maximum square feet of gross floor area permitted on the site.*

Section 8: Section 224-187.2 is hereby amended to read as follows (new language in *italics*; deleted language ~~stricken~~):

§ 224-187.2. Affordable housing requirement for *senior assisted-living* facilities.

- A. In *senior assisted-* living facilities, 5% of all ~~assisted-living~~ units must be affordable to a household whose income does not exceed 80% of the AMI. Such units must remain affordable for a minimum of 50 years from the date of the initial certificate of occupancy for the *senior assisted-* living facility.
- B. Details of such affordability requirement shall be spelled out in an affordability plan submitted as part of the *senior assisted-* living *facility* special permit application, which plan must be approved by the Board of Trustees.
- C. Alternatively, the Board of Trustees may permit the affordability requirement to be satisfied by the payment into an affordable housing development fund of an amount equal to the cost of providing the requisite number of affordable units.

Section 9: Chapter 188, “Subdivision of Land,” Section 188-20.D is hereby amended, in part, as follows (new language in *italics*):

RECREATION FACTOR

- (1) Forty-one thousand five hundred in the 1F-40 District.
- (2) Twenty-one thousand five hundred in the 1F-20 District.
- (3) Eleven thousand five hundred in the 1F-10 District.
- (4) Six thousand five hundred in the 1F-5 District.
- (5) Eight thousand in the 2F District.
- (6) Six thousand five hundred in the MF District.
- (7) *Six thousand five hundred in the NBMD District.*
- (8) Four thousand in the B District.

Section 10: All ordinances, local laws, and parts thereof inconsistent with this local law are hereby repealed.

Section 11: This local law shall take effect immediately upon filing in the office of the New York Secretary of State.