

LOCAL LAW ___ OF 2020

AMENDING THE IRVINGTON ZONING CODE
TO CREATE THE NORTH BROADWAY MIXED-USE
MULTIFAMILY/OFFICE DISTRICT
(October 22, 2020)

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

Section 1: Section 224-3 of the Zoning Code (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.~~

~~BOULIQUE HOTEL – A small luxury hotel containing 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/or Full Care Living Units for persons 62 years of age or older.~~

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

Multifamily/Office District

MFO

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~~

Multifamily/Office MFO

§ 224-47.7. Purpose.

The purpose of the ~~North Broadway Mixed-Use~~ **Multifamily/Office** 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, **and promotes a diversity of housing in the Village.** The ~~North Broadway Mixed-Use~~ **Multifamily/Office** 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.~~

A. ~~Attached one-family and Three-or-more-family dwellings provided that the maximum number of units shall be determined based on a site capacity analysis pursuant to Article XV, Resource Protection and Chapter 188, Subdivision of Land.~~

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.~~

(3) ~~The applicant must demonstrate, to the satisfaction of the Planning Board, that the proposed use will not negatively impact the Village's emergency response systems, including the Irvington Volunteer Ambulance Corps.~~

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 and/or East Sunnyside Lane.~~

(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.~~

B. Offices, including small practice medical offices.

F. ~~Research and design.~~

G. ~~Small practice medical offices.~~

- ~~H. Conference centers.~~
- ~~I. Full service restaurants, excluding formula/fast-food establishments and drive-thru facilities.~~
- C. Places of worship including parish houses and religious school buildings, schools, public libraries, museums, art galleries or community center buildings.
- ~~K. Annual membership clubs catering exclusively to members and their guests.~~
- D. On lots with direct access to Broadway and/or East Sunnyside Lane, bed-and-breakfast establishments, in accordance with the provisions of § 224-8.D of this chapter.
- E. Accessory buildings, accessory uses, and community amenities customarily incidental to a special permit use.
- F. Accessory off-street parking facilities serving the permitted special permit use(s) on the lot.

§ 224-47.9. Bulk Regulations.

- A. Minimum lot size. No new lot may be created in the ~~North Broadway Mixed-Use~~ Multifamily/Office District unless it has an area of at least 80,000 square feet.
- B. 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 (75 if abutting a one-family district)	50 (75 if abutting a one-family district)

NOTES: Two properties do not abut if there is a street between them.

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.B(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 a significant public interest and would be consistent with the 2018 Comprehensive Plan Update, it may waive or modify this 250 foot requirement.

C. 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.

D. Coverage. Within the ~~North Broadway Mixed-Use~~ Multifamily/Office District the term “lot coverage” shall mean the sum of the area of all buildings, as defined in § 224-3, 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.

E. 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.
- (3) Underground parking shall not be included in the number of stories.

F. FAR.

- (1) The following terms, as used in this section, shall have the following meanings:

FLOOR AREA RATIO (FAR) – The gross floor area of all buildings on a lot divided by the gross site area of the lot.

GROSS FLOOR AREA – The sum of the horizontal area of all stories of a building, measured from the exterior faces of exterior walls, or, in the case of a common wall separating two buildings, from the center line of such common wall, but excluding areas exempted by subsections A through C of § 224-137 (whether or not in a residential building).

- (2) The floor area ratio (FAR) shall not exceed 0.30 inclusive of all on-site buildings.
 - (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 of any local landmark designated by the Board of Trustees pursuant to § 144-3, or 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 local landmark or building of local historic significance.
 - (6) The Board of Trustees, in its sole discretion, may permit an additional FAR of up to .10 if it determines that the proposed development or element(s) of the development would further an important public benefit, such as the provision of affordable housing beyond the Village Code requirements or the provision of a sidewalk along Broadway, except that in no event may the FAR exceed .45. If additional FAR is permitted by (5) of this section, the maximum total FAR may not exceed .45.
- G. ~~Maximum building size. No individual building may exceed 100,000 square feet in gross floor area. Underground parking shall not be included in the calculation of maximum building size.~~
- G. Maximum building length. No building shall exceed a length of 225 feet at grade. This limitation shall not apply to covered walkways, porticos or similar structures connecting buildings, nor shall it apply to driveways or parking lots.
- H.** **Minimum distance between buildings. A minimum distance of 25 feet between any two buildings, whether principal or accessory, shall be observed.**

§ 224-47.10. Design regulations.

- A. Lighting.

- (1) Exterior lighting shall be limited to the minimum necessary for the safety and convenience of the users of the premises. Timers, motion sensors, and light sensors shall be used to reduce light usage to only the times necessary.
- (2) All lighting, including lighting of signs, 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.
- (3) Lighting shall be designed to the minimum level required for health and safety and shall not exceed 5 footcandles, except:
 - (a) At or beyond a property line abutting a residential parcel or public right-of-way, it may not exceed .1 footcandles, as measurable from any orientation of the measuring device, except at the entrance to a driveway or walkway, so long as the lighting is at the minimum level required for safety.
 - (b) At or beyond a property line abutting a non-residential property, it may not exceed .3 footcandles, as measurable from any orientation of the measuring device, except at the entrance to a driveway or walkway, so long as the lighting is at the minimum level required for safety.
- (4) The limitations of this subsection A shall not apply to:
 - [a] Low voltage landscape lighting aimed away from adjacent properties, and
 - [b] Lighting installed with a vacancy sensor, where the sensor extinguishes the light no more than 15 minutes after the area is vacated.

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 to minimize any adverse effect on 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.F, 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 plan review of a proposed erection or exterior alteration of a building or structure in the ~~North Broadway Mixed-Use~~ Multifamily/Office 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. Outdoor activities. Any outdoor activities conducted in connection with any permitted use in the North Broadway Mixed-Use District must comply with the following restrictions:~~

- ~~A. No outdoor activity shall take place within a required setback.~~
- ~~B. No amplified music or amplified sounds are permitted outdoors.~~
- ~~C. No outdoor activity shall take place before 9:00 a.m. any day of the week nor after 9:00 p.m. on Sunday through Thursday, and 10:00 p.m. on Friday, Saturday and the night before a federal holiday.~~

§ 224-47.12. Signs.

- A. All signs shall conform with Article XXIX, Signs and Awnings (§§ 224-188 through 224-195), except that signs on business establishments and other uses permitted in the ~~North Broadway Mixed-Use~~ Multifamily/Office District shall comply with this section, not § 224-193.
- B. Permit required. Unless specifically exempted in Article XXIX, no sign may be erected or displayed without first obtaining approval from the Board of Architectural Review (ARB). If the ARB approves an application for a sign permit, the Building Inspector shall issue the permit.
- C. Limitations. Subject to subsection D of this section:
- (1) Generally, there should be one sign for each permitted use.
 - (2) The maximum surface area of any permitted sign shall not exceed 12 square feet per side.
 - (3) Such sign may be freestanding, and, notwithstanding § 224-51, may be located within the 50-foot Broadway buffer. No such sign shall exceed 10 feet in height.
 - (4) Interior lit signs are not permitted. Only indirectly illuminated signs are permitted. The brilliance, degree, intensity and type of illumination shall be the minimum necessary for the purpose of such illumination, consistent with public safety and welfare.
 - (5) Flashing, moving, fluttering, changing or intermittently illuminated signs are not permitted
 - (6) Building directories are encouraged for multi-tenanted buildings, rather than individual signs for each tenant.
 - (7) No sign may be installed on an existing stone wall.
- D. Board of Architectural Review guidelines for signs in the NBMD. The design, color, character, size, number, scale and lighting of signs shall be in keeping with, and appropriate to, the character of Irvington and its ~~North Broadway Mixed-Use~~ Multifamily/Office District, and shall not interfere with the safety of passing traffic.

§ 224-47.13. 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 the neighborhood, including, but not limited to, the following:
 - (a) Stone walls along Broadway should not be removed or modified except as is absolutely necessary for the proposed use.
 - (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 be in harmony with the character and appearance of neighboring properties and the Village as a whole.
 - (4) Will not result in an unmitigated significant adverse traffic impact at any of the intersections identified by the Planning Board.
 - (a) At a minimum, the following shall be deemed a significant adverse traffic impact:
 - (i) A degradation in level of service (LOS) for a lane group in the No Action condition to LOS E or F in the With Action condition, as defined by the Transportation Research Board Highway Capacity Manual (latest edition).
 - (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 for any turning lane or a 95th percentile queue length extending to the adjacent intersection for any

through lane.

- (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.
- (5) Protected trees, as defined in § 202-2 of the Village Code, should be removed only under the circumstances listed in § 202-5.A of the Village Code.
- 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 from Broadway to the point on Strawberry Lane where the use has access or egress.
- 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, Zoning, 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 Multifamily/Office*, 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 Multifamily/Office*, 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, Zoning, Article XIV Site Development Plan Approval, Section 224-66 (Approval Required) is hereby amended to read as follows (deleted language ~~stricken~~; 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~~ *that* 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~~ *that* 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, Zoning, 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
NBMD MFO	3,500 3,000
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 the North Broadway Mixed-Use~~ **Multifamily/Office** District, and in terms of dwelling units and floor area in the Business District.

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

§ 224-85.1. Determination of site capacity in ~~North Broadway Mixed-Use~~ **Multifamily/Office District.**

For attached one-family and three-or-more family uses, the site capacity in

~~the North Broadway Mixed-Use~~ **Multifamily/Office** District shall be the Net Buildable Site Area divided by the density factor of ~~5,000~~ **3,000** square feet, rounded down to the next lower whole number.

Section 8: ~~Section 224-187.2 of the Zoning Code 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 8: Section 224-91 of the Zoning Code is hereby amended to read as follows (new language in *italics*):

§ 224-191. Prohibited signs.

Unless otherwise provided, the following signs are prohibited throughout the Village:

- A. Signs that emit smoke, visible vapors or particles, sound or odor.
- B. Roof signs.
- C. Signs of such a design and location that they interfere with, compete for attention with, or may be mistaken for a traffic signal.
- D. Freestanding signs except as set forth in §§ 224-47.13, 224-192 and 224-193 and §§ 184-24 through 184-32 (sidewalk vending) of this Code.

- E. *Except in the North Broadway Mixed-Use District (NBMD) Multifamily/Office District (MFO)*, signs on or projecting from any exterior wall of a building above the second story.

Section 9: A new Article XXXIII is hereby added to Chapter 224, Zoning, to provide as follows:

ARTICLE XXXIII

MODERATE INCOME HOUSING

§ 224-211. Purpose.

The purpose of this Article is to increase the number of housing units affordable to households with moderate income and to encourage a more diverse population in the Village.

§ 224-212. Definitions.

AMI - Area median income for Westchester County, as defined annually by the United States Department of Housing and Urban Development (HUD).

MODERATE INCOME HOUSEHOLD – A household with an annual income of not more than 150% of AMI adjusted for household size.

MODERATE INCOME UNIT or MIU – A dwelling unit limited in occupancy to moderate income households and for which the annual rental cost does not exceed 33% of said income or, for private ownership units, the annual cost (the sum of principal, interest, taxes, insurance and common charges, if any) does not exceed 33% of said income.

§ 224-213. Density bonus for providing Moderate Income Units.

The following incentives are available in any permitted three-or-more family dwelling:

- A. A developer shall be allowed to exceed the maximum number of dwelling units otherwise permitted by the Zoning Code, but in no event by more than 20%, if for every market rate unit in excess of the maximum, the developer builds one Moderate Income Unit affordable

to a household whose income does not exceed 120% of AMI. For example, if the permitted site capacity is 60, the developer may construct 12 additional units if 6 of the additional units are MIUs for households with 120% of AMI, resulting in a total of 72 units (6 affordable, 6 120% Moderate Income, and 60 market-rate units).

- B. A developer shall be allowed to exceed the maximum number of dwelling units otherwise permitted by the Zoning Code, but in no event by more than 20%, if for every one market rate unit in excess of the maximum, the developer builds two Moderate Income Units affordable to a household whose income does not exceed 150% of AMI. For example, if the permitted site capacity is 60, the developer may construct 12 additional units if 8 of the additional units are MIUs for households with 150% of AMI, resulting in a total of 72 units (6 affordable, 8 150% Moderate Income, and 58 market-rate units).

§ 224-214. Maximum rent and initial sale price.

- A. The maximum monthly rent for Moderate Income Units (including estimated utilities) shall be set by the Village Board of Trustees or its designee. The rent, including the estimated cost of utilities (heat, hot water and electricity) shall not exceed 33% of income for a moderate-income household.
- B. The maximum sale price for Moderate Income Units shall be set by the Village Board of Trustees (or its designee). The initial sale price of a MIU shall be calculated so that the annual cost of the sum of principal, interest, taxes and insurance and common charges, as applicable, shall not exceed 33% of income for a moderate-income household.

§ 224-215. Time period for moderate income limitation.

Units designated as Moderate Income Units must remain as Moderate Income Units for a minimum of 50 years from the date of the initial certificate of occupancy for rental properties and from the date of original sale for for-purchase units.

§ 224-216. Property restriction.

Any Moderate Income Unit or a property containing any Moderate Income

Unit must be restricted by using a mechanism such as a declaration of restrictive covenants, in recordable form acceptable to the Village Attorney, that shall ensure that the Moderate Income Unit shall remain subject to the regulations of this Moderate Income Housing article for the minimum 50-year period. Among other provisions, the covenants shall require that the MIU be the primary residence of the resident household occupying the MIU. Upon approval, such declaration shall be recorded against the property containing the Moderate Income Unit prior to the issuance of a certificate of occupancy.

§224-217. Primary residence.

Any Moderate Income Unit shall be the primary residence of the resident household occupying the unit.

§ 224-218. Unit integration, appearance and quality.

- A. Moderate Income Units shall generally be distributed evenly throughout the development. Notwithstanding, the Planning Board may use discretion in reviewing and approving distribution.
- B. Moderate Income Units shall be distributed among one-, two-, three- or four-bedroom units in the same proportion as all other units in the development, unless a different proportion is approved by the Planning Board as being better suited to the housing needs of the Village.
- C. The exterior appearance of Moderate Income Units shall not distinguish them as a class from market rate units.
- D. Moderate Income Units shall be constructed to the same quality standards as market rate units. The developer, however, may substitute different appliances and interior finishes where such substitution would not adversely impact the livability of the MIU.

§ 224-219. Construction of Moderate Income Units.

The Moderate Income Units shall be developed simultaneously with or prior to the development of the market-rate units. If the development is phased, the phasing plan shall provide for the construction of MIUs proportionately and concurrently with market rate units.

§ 224-220. Lease renewal requirements.

- A. A person renting a Moderate Income Unit shall sign a lease for a term of no more than two years. As long as a renter remains eligible and has complied with the terms of the lease, the renter shall be offered renewal leases for a term of not more than two years each.
- B. If a renter's annual gross income should subsequently exceed the maximum then allowable, as defined in this article, then the renter may complete his/her current lease term and shall be offered a market rate rental unit in the development, if available, at the end of such lease term. If no such unit is available at said time, the renter may be allowed to sign one additional one-year lease for the Moderate Income Unit s/he occupies but shall not be offered a renewal of the lease beyond the expiration of that additional one-year lease term. If, however, at the end of the additional one-year term, the renter's income is below the maximum then allowable, the renter shall be offered a two-year renewal lease.

§ 224-221. Resale; calculation of permissible resale price.

- A. For-purchase Moderate Income Units may be resold only to eligible moderate income households.
- B. The owner of a Moderate Income Unit shall notify the Village Board of Trustees of the intent to sell prior to contract with any purchaser.
- C. The maximum resale price may not exceed the purchase price plus the cost of permanent fixed improvements, adjusted for the increase in the consumer price index during the period of ownership of the MIU and such improvements, plus reasonable and necessary resale expenses. Notwithstanding the foregoing, in no case shall the resale price exceed the income restrictions for Moderate Income Units.

§ 224-222. Administration and monitoring agency.

The Village Board of Trustees or its designee shall administer the requirements of this article and, among other things, be responsible for monitoring the Moderate Income Units during the units' periods of income limits and for monitoring compliance with the income and eligibility requirements. The costs of such administration and monitoring shall be borne by the developer/owner.

§ 224-223. Tax assessment.

The Village's Assessor shall consider the limited sale value of Moderate Income Units in determining the appropriate assessment on such units.

§ 224-224. Applicability of other Code provisions.

All of the provisions of the Code of the Village of Irvington not inconsistent or in conflict with the provisions of this article shall be applicable to Moderate Income Housing.

Section 10: 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~~ MFO District.*
- (8) Four thousand in the B District.

Section 11: The Zoning Map of the Village of Irvington is amended as shown on the attached Zoning Map, Village of Irvington.

Section 12: Chapter 195, Taxation, § 195-70 is hereby amended to read as follows (new language in *italics*):

§ 195-70. Authority to collect.

All hotels are required to receive a special permit, pursuant to §§ 224-8, 224-36 and 224-47.8 of the Village Zoning Code, or to be registered by the Village, pursuant to § 224-206 of the Village Zoning Code. Such special permit or registration authorizes and requires the operator to collect the tax imposed by this article.

Section 13: All ordinances, local laws, and parts thereof inconsistent with this local law are hereby repealed.

Section 14: This local law shall take effect immediately upon filing in the office of the New York Secretary of State.