

NOTICE OF ADOPTION OF RESOLUTION

NOTICE IS HEREBY GIVEN that the Town Board of the Town of Babylon, County of Suffolk, State of New York, at a regular meeting thereof held on the 6th day of December 2017 duly adopted a resolution, an abstract of which is as follows:

**RESOLUTION NO. 891 DECEMBER 6, 2017
ADOPTING LOCAL LAW NO. 11 OF 2017 AMENDING CHAPTER 213,
OF THE BABYLON TOWN CODE (ZONING)**

WHEREAS, the Town Board of the Town of Babylon having duly called and held a Public Hearing at Babylon Town Hall, 200 East Sunrise Highway, Lindenhurst, New York, on the 6th day of December 2017 upon the question of enactment of Local Law No. 11 of 2017 of the Town of Babylon, Suffolk County, New York, being a Local Law amending the Code of the Town of Babylon, Chapter 213;

NOW, THEREFORE, be it

RESOLVED AND ORDAINED, by the Town Board of the Town of Babylon that Local Law No. 11 of 2017, of the Town of Babylon, Suffolk County, New York, is hereby enacted as follows and effective upon its filing with the New York State Department of State:

LOCAL LAW NO. 11 of 2017

A Local Law amending the Code of the Town of Babylon, Chapter 213.

EXHIBIT "A"

TEXT TO BE DELETED:

Article XIIA: Residence-Office Mixed-Use District

Chapter 213: Zoning Article XIIA Residence-Office Mixed-Use District

§ 213-144.1 Legislative intent.

The regulations set forth in this article or set forth elsewhere in this chapter and applicable to the Residence-Office Mixed-Use District are intended to encourage office development of a high character compatibly mixed with residential uses, principally for areas within the Town in which a similar pattern of use has occurred or for areas in which an office-residence pattern is an appropriate transition between higher-density business districts and residential neighborhoods. Further, the regulations set forth in this article are designed to encourage and continue to improve the existing aesthetic appearance of those areas contained within this district. Where the existing aesthetic appearance is one of residences, the continuation of that appearance is both necessary and proper to preserve surrounding property values and to promote harmony with existing conditions. Further, the purpose of this section is to maintain existing development of residential-style buildings originally constructed in the early 1900s. These buildings are rightfully preserved for their architectural and historical significance.

§ 213-144.2 Definitions.

As used in this article, the following terms shall have the meanings indicated:

DWELLING UNIT

An area of a building or structure designated for and/or occupied as a home or residence containing not more than one cooking area.

OFFICE USE

The business, educational, and professional offices of architects, attorneys, professional engineers, real estate or insurance brokers, or surveyors; and studios for an artist, musician, photographer, sculptor or craftsman, including the teaching of art, music or other artistic instruction.

RESIDENCE-OFFICE MIXED-USE DWELLING

A building or structure containing one office use limited to the first story thereof and one dwelling unit limited to the second story or stories thereof.

§ 213-144.3 Permitted uses.

In a Residence-Office Mixed-Use District, no building or premises shall be used and no building shall hereafter be erected or altered unless otherwise provided in this chapter, except for one or more of the following uses:

A. Single-family residence;

B. Office use;

C. A residence-office mixed-use dwelling containing one office use limited to the first story thereof and one dwelling unit limited to the second story or stories thereof;

D. A use of the same general character as those specifically permitted in this section, when authorized as a special exception by the Board of Appeals, subject to conditions, restrictions and safeguards as may be imposed by the Board of Appeals;

E. Houses of worship;

F. Office of a physician, lawyer, architect, musician, teacher or similar professional person residing on the premises, and when such use is incidental to such residence; provided, however, that such use shall be within the main dwelling and occupying not more than 1/3 of the first-floor area.

G. Accessory buildings and structures in conformance with the requirements of the C Residence District, hereinbefore set forth in Article IX, which cannot occupy required parking area(s).

§ 213-144.4 Retail uses strictly prohibited.

In a Residence-Office Mixed-Use District, buildings used for retail purposes, in whole or in part, shall be strictly prohibited.

§ 213-144.5 Building height.

In a Residence-Office Mixed-Use District, no building or structure hereafter erected or altered shall exceed 30 feet or 2 1/2 stories.

§ 213-144.6 Lot area.

In a Residence-Office Mixed-Use District, no building or structure shall hereafter be erected or altered on a lot having an area of less than 10,000 square feet or upon a lot having a frontage of less than 75 feet.

§ 213-144.7 Building area.

In a Residence-Office Mixed-Use District, the total building area shall not exceed 25% of the total lot area.

§ 213-144.8 Front yards.

A. In a Residence-Office Mixed-Use District, the required front yard shall be not less than 25 feet.

B. If the street frontage on the same side of the street between the two nearest intersecting streets shall have been improved with residential dwellings or office buildings or a combination thereof, same having front yard setbacks averaging 15 feet or less, the allowable front yard setback may be decreased to 15 feet.

C. In a Residence-Office Mixed-Use District, the front yard shall have a maximum of one curb cut.

§ 213-144.9 Double front lots.

In a Residence-Office Mixed-Use District, the required front yard for a building or dwelling on a double-frontage lot shall be provided for on both streets. In the circumstance of a building or dwelling that enjoys the benefit of a reduced front yard setback of 15 feet at its primary front, as provided above, the second front yard setback must be 25 feet.

§ 213-144.10 Corner lots.

In a Residence-Office Mixed-Use District, the required front yard for a building or dwelling on a corner lot shall be provided for on both streets. In the circumstance of a building or dwelling that enjoys the benefit of a reduced front yard setback of 15 feet at its primary front, as provided above, the second front yard setback must be 25 feet.

§ 213-144.11 Rear yard setback.

In a Residence-Office Mixed-Use District, the required rear yard for a building or dwelling shall be not less than 50 feet.

§ 213-144.12 Other setbacks.

In all other regards, required setbacks shall conform to those required in a Residence C District, as set forth hereinbefore in Article IX.

§ 213-144.13 Fences, hedges and shrubbery.

A. In a Residence-Office Mixed-Use District, the following fences, as defined in this chapter, shall be permitted:

(1) On the rear lot line and side lot lines, enclosing the rear and side yards, fencing may be erected not exceeding six feet in height, provided that it shall not exist in any portion of the front yard, nor shall any fencing six feet in height be permitted at any location front of the rear building line of the main building or structure on the parcel.

(2) In the front yard, front of the rear building line of the principal structure, fencing may be erected not exceeding four feet in height.

(3) On a corner lot, within the triangular area bounded by the lot lines connecting at the street corner of the lot and a point 30 feet from that intersection on each of said connecting lot lines,

any fencing, which might tend to cause a vision obstruction, may be erected not exceeding three feet in height.

(4) Within 10 feet of the edge of either side of the ingress and/or egress of a driveway, any fencing, which might tend to cause a vision obstruction, may be erected not exceeding three feet in height.

(5) In the front yard, beyond the front building line of the principal structure, solid fencing of any type, by whatever name called, shall be prohibited.

B. In reference to any fence permitted herein, the following shall be strictly prohibited:

(1) The existence of any gate which opens onto any street.

(2) The use of any fence which delivers an electric shock, charge or current to any animal or human being when contact is made.

(3) The use of chain-link fence or stockade fence in the front yard.

C. The provisions of this section shall also apply to hedges and/or densely growing shrubbery.

D. For the purpose of this section only, the following terms shall have the meanings indicated:

FRONT BUILDING LINE

Refers only to the principal structure, and shall not include patios, porches, stoops, enclosed vestibules protruding from the front of the principal structure and any other non-living-space extensions to the principal structure.

FRONT YARD

Refers to the yard which faces the street that is used as the postal or mailing address of the subject property when said property has frontage on two or more streets.

REAR BUILDING LINE

Refers only to the principal structure, and shall not include patios, porches, stoops, enclosed vestibules protruding from the rear of the principal structure and any other non-living-space extensions to the principal structure.

E. Fencing which complies with the provisions of this section shall not require a building permit. Fencing permitted by a variance granted by the Board of Appeals or modifications granted by the Planning Board, pursuant to this chapter, shall require a building permit.

F. Any fence, hedge or shrubbery existing prior to the adoption of this article is permitted; however, it shall not be replaced except in conforming with the provisions of this article.

§ 213-144.14 Permitted encroachments.

A. In a Residence-Office District, the following encroachments upon required yard areas are permitted:

(1) Cornices, eaves, gutters, chimneys or bay windows projecting not more than 24 inches.

(2) One-story open porches and terraces not exceeding three feet in height, projecting not more than four feet into a front or rear yard.

(3) One-story enclosed vestibules not greater than six feet wide and five feet into the front yard.

B. In any case where the Board of Appeals has diminished a required yard by a variance, none of the foregoing encroachments shall be permitted into such diminished yard.

§ 213-144.15 Ground floor area.

A. In the case of a one-and-one-half-story (expansion attic area) dwelling, no such dwelling shall be hereafter erected unless the ground floor area contains not less than 950 square feet, exclusive of garage, car park, carport, open porches or terraces or any other unheated extensions outside

the body of the house; provided, however, that a maximum of 100 square feet of expansion attic area, as hereinafter described, may be used and applied to the area requirements of the ground floor, diminishing said ground floor area requirements to not less than 850 square feet.

B. In the case of a one-story dwelling not capable of qualifying for expansion attic area, as hereinafter described, no such dwelling shall be hereafter erected unless the ground floor area contains not less than 900 square feet, exclusive of garage, car park, carport, open porches or terraces or any other unheated extension outside the body of the house.

C. To qualify as expansion attic area, such area shall have or be capable of having a finished ceiling height of not less than seven feet in height and a finished ceiling width of not less than four feet between opposing rafters. Such area shall further have knee walls of not less than four feet in height, with subflooring laid within the area to be computed, and shall have access provided from the floor below by means of a permanent built-in stairway. The expansion attic area shall not be required to be finished except as provided herein.

D. In the case of a split-level dwelling, any two finished, decorated and heated levels may be combined to qualify for minimum ground floor area requirements; provided, however, that all remaining levels are finished, decorated and heated and are of sufficient square footage when combined with the ground floor area, to total not less than 950 square feet.

E. In the case of a two-story dwelling, the ground floor area shall contain not less than 660 square feet, exclusive of garage, car park, carport, open porches or terraces or any other unheated extensions outside the body of the house; provided, however, that the second story area shall contain not less than 75% of the ground floor area, with an unobstructed ceiling height of not less than eight feet, and access shall be provided from the floor below by means of a permanent built-in stairway. The second story area shall be finished, decorated and heated for the purpose of qualifying under this section.

F. For the purpose of this section, "ground floor area" is defined as the area contained within the exterior dimensions of the ground floor.

§ 213-144.16 Size and nature of dwelling units.

A. No dwelling unit may be contained in any building or structure other than the main dwelling.

B. No dwelling unit or any part thereof may be contained in a cellar or basement.

C. Permitted rooms within a dwelling unit. The dwelling unit may contain one kitchen, one dining room, one living room, one or two bathrooms and up to two bedrooms. Rooms designated as dens, libraries, studios, family rooms, bonus rooms, computer rooms, or any similarly named room, shall be deemed to be additional bedrooms. This section shall only apply to dwelling units contained in a residence-office mixed-use dwelling and any residence or structure that is converted to a residence-office mixed-use dwelling. This section shall not apply to any existing dwelling, nor any existing dwelling that is being rebuilt and/or repaired to its prior status because of a fire.

D. The dwelling must comply with all requirements of the New York State Building Code^[1] and all the laws and housing regulations of the State of New York and the Town of Babylon and be maintained in a neat and orderly manner.

§ 213-144.17 Architectural design.

A. The design and location of all site improvements and all buildings must be consistent with the ultimate purpose of achieving the goals set forth in the "legislative intent" section of this article. Building prototypes and design shall reflect an architectural design and style in conformity with

the surrounding community and shall be built with due consideration for the special character of any and all adjacent residential development. The architectural design, scale and mass of buildings and other structures, the exterior building material and color, rooflines and building elevations shall be conservative and dignified and of such character as to harmonize and be compatible with the neighborhood so as to protect property values in the neighborhood and to improve the appearance of the community. All new construction shall adhere to the purposes of this district. Specifically:

- (1) Buildings shall be designed to achieve small scale and residential appearance.
- (2) Pitched-roofed buildings shall be required. Flat roofs shall not be permitted.
- (3) Rooftop mechanical equipment shall be prohibited, except for satellite dishes and energy conservation systems such as solar panels. The owner shall attempt to locate rooftop satellite dishes or ground-mounted satellite dishes in areas other than front yards or visible from the front yard.
- (4) Buildings shall be designed and located on the site so as to retain the existing topography and natural features of the land to the greatest extent possible.
- (5) Any and all new construction or substantial reconstruction of an existing structure contained within a Residence-Office Mixed-Use District shall be subject to formal architectural review by the Planning Board.

B. Nothing contained in this section shall be construed to prevent the ordinary maintenance and repair of any exterior architectural features on a premises which does not involve a change in design, material, color or the outward appearance thereof.

C. There shall be no addition made to, nor shall there be any demolition of, any existing house located within a Residence-Office Mixed-use District without the prior approval of the Planning Board.

§ 213-144.18 Required parking; restrictions.

A. For a residence-office mixed-use dwelling: Two spaces are required for each dwelling unit in such dwelling, plus one space for each 250 square feet of gross floor area dedicated to office use as defined herein. Fractional spaces shall be rounded up to constitute one whole space.

B. No parking shall be permitted in any front yard. Parking shall be limited to a side or rear yard only.

§ 213-144.19 Signage.

For residence-office mixed-use dwelling:

A. Permitted signage. Only one sign shall be permitted on any parcel containing a residence-office use mixed-use dwelling. The permissible sign shall be a ground sign only.

B. Sign height, width and maximum allowable square footage for sign face. A permitted ground sign shall not exceed four feet in height; nor shall it exceed four feet in total width; it shall contain one sign face which may not exceed six square feet and shall be located at least five feet from the front and side lot lines.

C. Sign illumination. A permitted ground sign may be illuminated only by indirect illumination by an electric lamp not exceeding 15 watts of power contained on the sign or sign structure.

D. There shall be no exterior display, nor any interior display visible from the exterior, of merchandise or advertising, no retail trade, no exterior storage of material or equipment and no other exterior indications of use, except in accordance with the Town of Babylon Sign Code, Article XXXIII herein.

E. Any sign contained within a Residence-Office Mixed-Use District shall be subject to formal architectural review by the Planning Board.

§ 213-144.20 Nonconforming uses.

Notwithstanding anything contained in Article XIIA, in a Residence-Office Mixed-Use District, any legal nonconforming use, as defined in § 213-22 of the Babylon Town Code, may continue subject to the provisions set forth in §§ 213-22 through and including 213-27 of the Babylon Town Code.

§ 213-144.21 Fire protection systems.

A fire protection system which shall include a full fire sprinkler system, smoke and heat detection system shall be installed.

Dated: December 6, 2017, Town of Babylon

BY ORDER OF THE TOWN BOARD, TOWN OF BABYLON
CAROL QUIRK, TOWN CLERK